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March 2, 2009

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IRS ISSUES FINAL REGULATIONS ON AUTOMATIC ENROLLMENT IN 401(K) PLANS / PAGE 3

ECONOMIC STIMULUS MEASURE MAY RESULT IN HIGHER DEMAND FOR INSURANCE / PAGE 3

FED CHAIRMAN WARMS TO OFC IDEA / PAGE 3

In Brief

Best, S&P downgrade Hartford insurance units

A.M. Best Co. Inc. and Standard & Poor's Corp. have both downgraded their financial strength ratings on Hartford Financial Services Group Inc.'s insurance operations. Best dropped the Hartford operations to A from A+, while S&P lowered its rating to A+ from AA-. Both cited challenges from investments and economic conditions. S&P's action was among several life insurer downgrades it issued last week.

Coca-Cola captive plan denied rapid approval

The Coca-Cola Co. will continue to seek regulatory approval of its plan to fund retiree health care benefits through a special trust and its captive insurance company after a Labor Department ruling last week that

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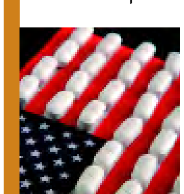
BENEFITS MANAGEMENT

HEALTH CARE REFORM



Change coming to health care despite a tough economic climate; Bay State's success in health reform generates interest from other states mulling how to cover the uninsured; budget deficits force some states to try incremental changes rather than radical reform of health care systems. **PAGE 9**

AIG FIGHTS FOR SURVIVAL AMID CRISIS

Clients weigh options as turmoil continues for insurance giant

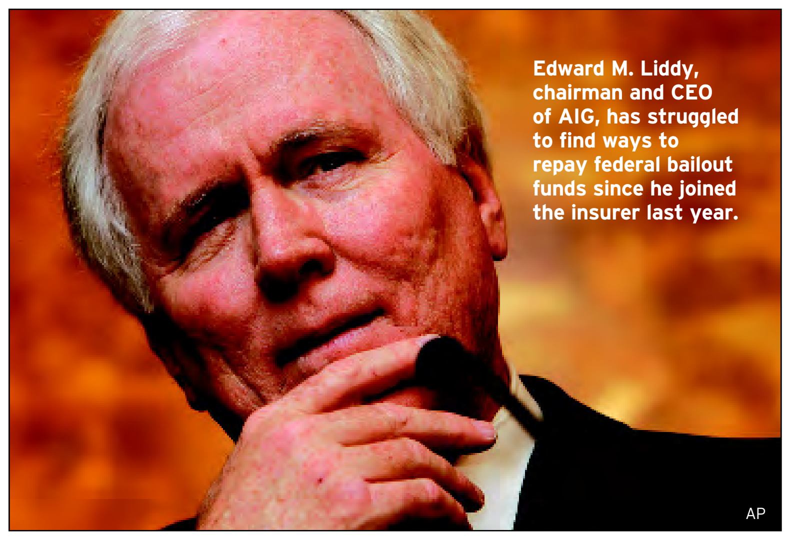
By SALLY ROBERTS

NEW YORK—While some American International Group Inc. policyholders are losing patience with the troubled insurer, many remain committed to AIG despite reports last week that it will report the largest quarterly loss in U.S. history and is prepared to file for bankruptcy unless the government provides further assistance.

Brokers said they once again were fielding calls from concerned clients and are keeping them abreast of the situation as it unfolds.

Much of the concern, brokers said, centers on possible ratings downgrades at AIG's insurance operations and what would happen if AIG's parent company files for bankruptcy. Clients also want to know what their peers are doing in terms of maintaining relationships with AIG or moving their business elsewhere, they say.

"We continue to work with the U.S. government to evaluate potential new alternatives for addressing AIG's financial challenges," a spokesman for the New York-based insurer said last week. "We will provide a complete update when we report financial results in the near future. AIG's commercial insurance companies remain very well capitalized and committed to retaining the financial strength of their operations in the best interests of their policyholders," he added.



Edward M. Liddy, chairman and CEO of AIG, has struggled to find ways to repay federal bailout funds since he joined the insurer last year.

AP

Since the near collapse of the insurance giant last September and subsequent government bailout efforts, policyholders have been looking to diversify business away from AIG where that has been commercially viable. Most, however, have maintained relationships with the insurer.

But last week's news that AIG is expected to report a roughly $60 billion fourth-quarter loss this week and is in discussions with the government to secure additional funds to keep operating "has people shaking their heads, trying to figure out what's the end game for this," said Eric Andersen, New York-based

See **AIG** page 20

Asset sale proves tough in constricted credit market

By JUDY GREENWALD

NEW YORK—Last week marked a period of increased turmoil for American International Group Inc., as reports of its need for additional federal help created even more questions about the company's future condition and even its prospects for survival.

Concerns about AIG's future intensified after CNBC reported Monday that the company was set to announce a roughly $60 billion fourth-quarter loss today and would need to revise terms of its federal bailout to avoid potentially crippling ratings downgrades and a potential bankruptcy.

In the wake of that and other reports about ongoing talks to rework its bailout terms, AIG acknowledged that it may have to revisit its plan to repay its $60 billion federal loan by selling noncore units while retaining its property/casualty and other core

See **TURMOIL** page 21

Obama presses ahead with health reform agenda

By JERRY GEISEL

WASHINGTON—President Obama last week reaffirmed his commitment to comprehensive health care reform and revealed the first details about the cost of reform and how some of that cost would be met.

In a presentation before a joint session of Congress, President Obama told legislators that health care reform will not be put on hold.

"Let there be no doubt: Health care reform cannot wait, it must not wait and it will not wait another year," President Obama said.

That commitment was apparent in the administration's budget outline for fiscal 2010, which also was released last week.

In that blueprint, the administration said it will work with Congress this year on a plan to put the United States on a "clear path" toward universal health care coverage.

In addition, in a rejection of European-style, single-payer systems, the administration said one pillar of the reform plan must be that U.S. residents have a choice of health care plans and physicians, while employees must have the option of retaining coverage through their employers.

While light on detail, Washington observers said President Obama's address and budget outline are significant for several reasons, notably that health care reform will not just be a campaign pledge but something that will be a top administration priority.

"He is honoring his commitment. He is making clear that health care reform has not fallen off the table because of a sour economy and that he wants action," said Frank McArdle, a consultant in the Washington office of Hewitt Associates Inc.

President Obama last week sent out other messages about the path he intends to take to try to win passage of reform legislation.

See **OBAMA** page 20

AP

The Obama administration's budget outline for fiscal 2010 was released last week.

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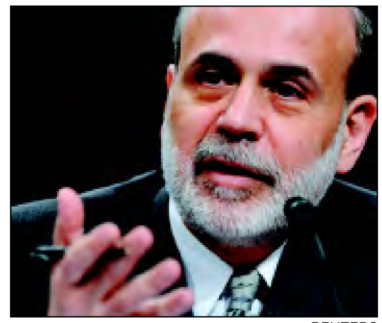
Bernanke warms to optional federal charter

Favorable comments by Fed chairman may help passage

By MARK A. HOFMANN



REUTERS

Mr. Bernanke acknowledged that the OFC issue is complex and involves many considerations.

WASHINGTON—Federal Reserve Chairman Ben Bernanke's comment that establishing optional federal charters for insurers is a "useful idea" could prove to be a useful argument for OFC proponents.

OFC supporters say the Fed chairman's comments would bolster their cause, but others say Congress needs to focus on other financial services regulatory issues before dealing with the OFC.

Mr. Bernanke's remarks came during a House Financial Services Committee meeting last week. In response to a question from Rep. Ed Royce, R-Calif., Mr. Bernanke acknowledged that the OFC issue is complex and involves many considerations.

"To cut to the bottom line, I think that it would be a useful idea to create a federal option for insurance companies," particularly large, "systemically important ones," Mr. Bernanke told the panel, according to a transcript released by Rep. Royce's office.

Mr. Bernanke added that, in general, holding company-level supervision of systemically important institutions is "very important."

"We did not have effective holding company supervision in some of the cases where we have had problems," said Mr. Bernanke. "So I do believe an optional federal charter would be a direction worth giving serious consideration."

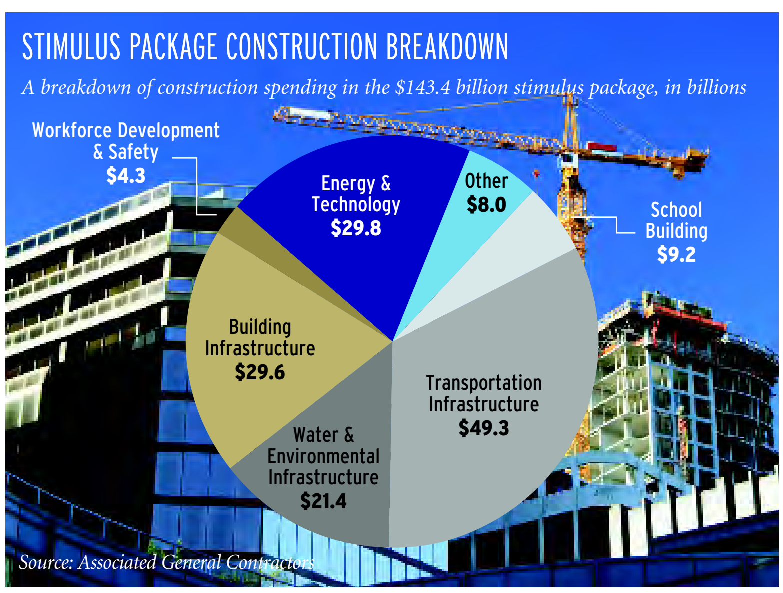
Reps. Royce and Melissa Bean, D-Ill., are expected to introduce a bill that would create a system of federal regulation of insurers.

OFC advocates said there was much to like in the Fed chairman's remarks.

"Yet again, another key policymaker in Washington is endorsing the concept of the optional federal charter," said Leigh Ann Pusey, president of the American Insurance Assn. in Washington. "I think that it's very significant when it's the Federal Reserve chairman, because he is in a position to look across these financial institutions and to recognize that there needs to be a level playing field for insurers along with the others in the financial services industry."

While noting that the Fed chairman's remarks "may fall a little short of an all-out endorsement," the New York-based Risk & Insurance Management Society Inc. "believes that Mr. Bernanke's

See **BERNANKE** page 22



Stimulus likely to raise demand for insurance

More construction projects will begin as result of ARRA

By ROBERTO CENICEROS

The economic stimulus package President Obama signed into law last month will spur some construction industry demand for insurance products, say brokers, insurers and consultants.

The use of owner-controlled and contractor-controlled insurance programs for construction projects also could get a sorely needed boost, they say.

However, estimates vary on how much of a boost the $787 billion American Recovery and Reinvestment Act of 2009 will provide for insurance products and services for the construction industry.

Slightly less than 25% of the $787 billion is slated for direct infrastructure development, according to Robert P. Hartwig, president of the New York-based Insurance Information Institute.

The stimulus package likely will increase property/casualty net written premiums by no more than 1%, or a maximum gain of $4.5 billion by year-end 2010, Mr. Hartwig said.

"It's a minor boost for the insurance industry," Mr. Hartwig added.

But insurers, brokers and consultants specializing in construction said they are eager to tap the billions of dollars expected to flow to road, highway and bridge construction and repairs, improvements to government buildings and other projects such as airport expansions.

It will help at a time when economic conditions have slowed money flowing to infrastructure projects, resulting in a decline in insurance premium dollars.

Net written premiums for the construction industry totaled about $222 billion in the first half of 2008, according to industry sources.

"The overall tone of the package is clearly positive," said Paul Primavera, senior vp in Washington for Lockton Construction Services Group, a unit of Lockton Cos. L.L.C.

See **CONSTRUCTION** page 6

IRS rules on 401(k) will help some employers

Nondiscrimination tests not required for auto enroll feature

By JOANNE WOJCIK

WASHINGTON—Final rules issued last week by the Internal Revenue Service will aid employers that want to add an automatic enrollment feature to their 401(k) plans without running nondiscrimination tests.

However, the rules only apply to two types of automatic enrollment programs: qualified automatic contribution arrangements and eligible automatic contribution arrangements.

Under the rules, employers that meet the specific QACA design requirements are exempt from actual deferral percentage/actual contribution percentage nondiscrimination testing. Those tests determine that contributions made by highly compensated employees don't, on average, exceed contributions by lower-paid employees by amounts set by law.

To qualify for the safe harbor from nondiscrimination testing, the plan must begin the automatic contributions at 3% of salary, escalating up to 6% adding 1% a year, and provide a company match or nonelective contribution with two-year vesting.

The rules still require employers that offer QACAs automatically enroll all employees. However, employers that offer an EACA may choose to enroll select groups of employees, such as only those employees who are hired on or after a certain date or for nonunion employees.

"You can have collectively bargained employees be exempt from automatic enrollment, or only require those employees to enroll and not the others," said Michael Weddell, a principal at Mercer L.L.C. in Detroit. "Under the proposed regulations, this wasn't clear," he said.

The final IRS regulations also extend the deadline for employers offering EACAs to make corrective distributions of excess contributions collected from employees who choose to opt out of the plan from March 15 to June 30. However, to qualify for this safe harbor, the EACA must enroll all eligible employees for the entire year.

EACAs allow employees who opt out of automatic enrollment to withdraw and cease their contributions within 90 days. However, they may not be entitled to collect a matching contribution. Employees are taxed on the distributions, but

See **401(k)** page 17

401(K) FEATURES

Ways employers are trying to boost plan participation.

51% offer automatic enrollment.

62% use a 3% default salary deferral rate.

70% use an automatic increase feature.

Source: Mercer October 2008 DC Quick Survey

Ailing economy may spur D&O class action suits: Advisen

Report cites various factors for array of securities litigation

By MARK A. HOFMANN

The legal landscape for directors and officers and their liability insurers could worsen this year, according to a report by New York-based Advisen Ltd.

The report—"Securities Litigation in 2008: Implications for the D&O Market in 2009 and Beyond"—said the challenges have arisen even though the number of securities class action suits filed in 2008 changed little from 2007.

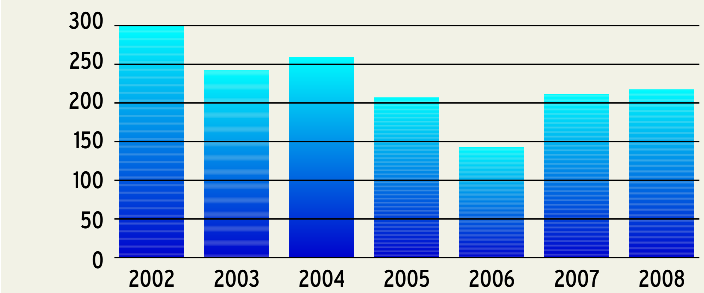
For example, the fall of two major law firms that specialized in representing plaintiffs in securities suits created "intense competition among new law firms advocating novel theories of liability," according to the report.

In fact, "traditional securities class action suits accounted for less than half of new securities litigation, while suits alleging common law torts, contract law violations, breach of fiduciary duty and violations of rarely cited securities laws became more common. Defense costs rose relentlessly," said the report by the consultant.

"The key take-away from this is that the securities market, as far as D&O underwriters are concerned, is changing very rapidly," said report author David Bradford, Advisen's executive vp and editor in chief. "The key development that we saw was really a very creative plaintiffs' bar that was moving away from the traditional securities class action suits. We have a very much broader array of litigation going on in 2008. There's a question whether that's a harbinger of the future or a response to the relatively unique circumstances of 2008. We're dealing with a lot of suits that are being generated by the credit crisis and the meltdown of the subprime-mortgage market."

SECURITIES LAWSUITS ON THE RISE

Number of securities class action suits filed, by year

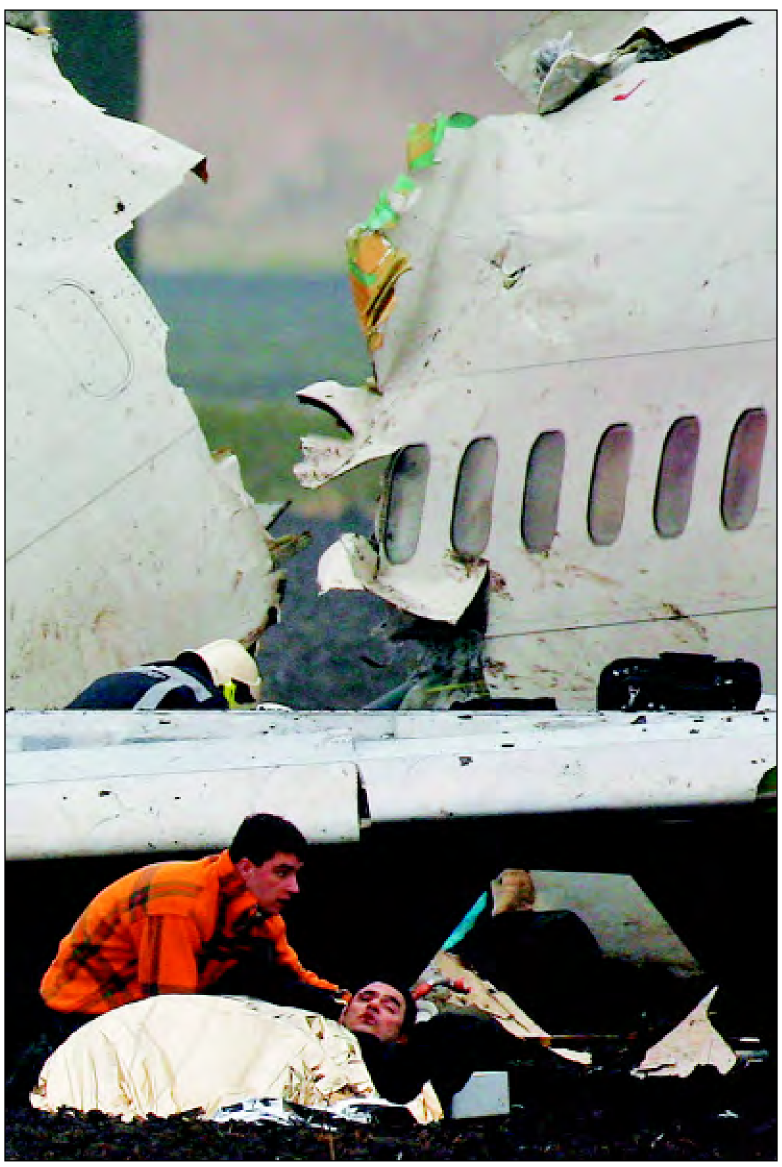


Source: Advisen Ltd.

"Already in 2009, we have more than 120 suits related to Madoff and to Stanford," he said, referring to the multibillion-dollar securities frauds allegedly committed by money managers Bernard Madoff and R. Allen Stanford.

The Advisen report noted that a handful of insurers writing the majority of financial institutions' D&O premiums suffered from the financial services-related D&O litigation, but "other D&O underwriters were comparatively unscathed. Thus far, 2009 is following a similar

See **ADVISEN** page 19



REUTERS

Allianz leads crash cover

AMSTERDAM, Netherlands—Allianz S.E. leads the hull and liability coverage for the Turkish Airlines Boeing 737-800 that crashed while attempting to land near Amsterdam, Netherlands, market sources said.

Turkish Airlines Flight 1951 was en route from Istanbul to Amsterdam's Schiphol Airport when it crashed and broke apart during its landing approach, killing nine people, including two pilots, and injuring dozens more. There were 121 survivors, according to reports.

The plane's hull was valued at around $47 million, sources said, noting that the airline also had more than $1 billion in liability limits. Turkish Airlines' coverage was part of the placement for Cologne, Germany-based airline Lufthansa AG, which includes some smaller domestic airlines in its insurance program, according to market sources.

Coverage was brokered by Willis Holdings Group Ltd., sources said.

–By Zack Phillips

Workers' ailing health problematic

'Presenteeism' bigger problem in tough times, experts say

By JOANNE WOJCIK

LOS ANGELES—Employers need to enhance wellness and mental health services to ensure that employees who remain after workforce reductions are healthy and productive, experts say.

As part of this effort, they also should measure the impact ill health has on employee productivity, focusing particularly on so-called "presenteeism," which many behavioral health experts say may be a bigger problem today than absenteeism. Presenteeism is used to describe employees who are on the job but accomplish little because they are ailing or distracted.

Because many of today's employers are financially strapped and unable to invest in infrastructure that may enhance company profitability, "worker productivity is more important today than ever before," Tom Parry, president of the Integrated Benefits Institute, said during an interview at the IBI/National Business Coalition on Health's 2009 Health & Productivity Forum, which was held Feb. 9-11 in Los Angeles.

"The productivity of our population is significantly impacted by behavioral health issues, such as depression and fatigue, and these are things that we felt we need to heighten and integrate into our overall health delivery system," said David Sensibaugh, director of integrated health at Eastman Chemical Co. in Kingsport, Tenn.

By participating in a multiemployer study that measured total costs of employee illnesses, Eastman learned that only 37% of its employees who were experiencing symptoms of depression were being treated.

The study combined pharmacy and medical claims data with results of a work performance questionnaire completed by employees. The questionnaire, HPQ-Select, was developed by the San Francisco-based IBI and the Midwest Business Group on Health (*BI*, July 18, 2007) in collaboration with Harvard Medical School researcher and health care policy professor Ron Kessler. It is a streamlined version of a more detailed questionnaire that Mr. Kessler developed for the World Health Organization as part of its Global Burden of Disease Initiative.

Reporting on some results of the recent multiemployer study during a session on health and productivity as a business strategy, Mr. Sensibaugh said the research found that Eastman's health-related productivity costs are three times greater than

See **HEALTH** page 18

Marsh, Berkshire add Gulf capacity

By ZACK PHILLIPS

NEW YORK—Marsh & McLennan Cos. Inc. and Berkshire Hathaway Inc. have created a windstorm property insurance program with $500 million of aggregate capacity for energy companies operating in the Gulf of Mexico.

Capacity has been shrinking and rates hardening for windstorm coverage in the Gulf because of a costly 2008 hurricane season, the hardening reinsurance market and the worldwide recession.

The Cost and Coverage Certainty Program, or Triple C Facility, will have a policy term of up to five years, with limits between $50 million and $100 million per occurrence, according to a Marsh statement. Attachment points will be between $20 million and $250 million per occurrence.

The program has an annual limit of $500 million for policyholders affected by a single event. If policyholders suffer more than $500 million in aggregate damages in a single year, coverage would be prorated beyond the $500 million

AP

Some insurers no longer will write Gulf of Mexico business after Hurricane Ike.

See **WIND** page 19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TO EASE THE PAIN IN HER BACK, WE REMOVED THE HEAVY LOAD FROM HER SHOULDERS.
When a working mom with a back injury could no longer do her job, she worried about how to support her family. Our Group Disability claims expert partnered with her and her doctor to get an accurate picture of the situation and developed a plan to return her to the workforce. With more than 95 years of managing disabilities, it's no wonder we've received a 97% satisfaction rating from our customers. Whether it's providing timely and accurate payments and claims status updates or creating unique return-to-work solutions, we focus on doing the right thing for both you and your employees. That's our policy. For more information, visit libertymutual.com/groupbenefits.
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Construction: Insurance demand may rise

CONTINUED FROM PAGE 3

"It will be a help. How much it helps the industry in regards to feeding more premium into it, time will tell."

Contractors that do work on the stimulus projects will need to purchase a variety of coverage including workers compensation, general liability and commercial automobile insurance for their trucks and equipment, several observers agreed.

Builders risk, an inland marine coverage, also will be necessary for some projects, added Jeffrey Langer, chief underwriting officer in Hartford, Conn., for Travelers Construction, a unit of Travelers Cos. Inc.

Some projects also will need pollution and professional liability coverages for various contractors developing them, said Kenneth Caldwell, executive vp of Aon Corp.'s construction services group in Los Angeles. He also participates in an Aon task force developing stimulus funding initiatives.

Observers said they also expect to see demand increase for surety products as public infrastructure insurance products typically require bonding to guarantee completion.

To capitalize on the stimulus funding, commercial insurers have sent out press releases touting their products.

DBH Resources, a Los Angeles-based risk management consultant with a construction specialty, is considering advertising its "shovel readiness," said George Dale, DBH's chief executive officer.

The "shovel-ready" term used by President Obama refers to construction projects that already have been planned and approved but lack financing. With the stimulus package's stated emphasis of quickly generating jobs, "shovel-ready" projects are expected to receive priority.

Because of their efficiencies, OCIPs and CCIPs could be particularly helpful in speeding a project's implementation, Mr. Dale said.

Under an OCIP, governmental agencies or other entities sponsoring large construction projects "wrap up," or purchase general liability, workers comp and other insurance, coverage for all contractors and subcontractors participating in their projects.

Under a CCIP, a large contractor typically arranges coverage for all of its subcontractors and includes the insurance costs in its bid, rather than requiring each subcontractor to individually purchase their own insurance.

"It's just that much faster to get the program going, because it's just one policy," Mr. Dale said.

OCIPs and CCIPs are appropriate arrangements for the types of infrastructure development projects likely to receive stimulus dollars, said Aon's Mr. Caldwell.

"The OCIP market died in the fourth quarter," Mr. Caldwell said. "We had many (construction) projects postponed, and so the OCIP and CCIP market will benefit, too, because there is nothing going into those markets right now."

Projects known as P3s, or public-private partnerships, also are likely to get a boost with some trickle-down dollars for the insurance industry, several observers said.

While P3s are better known in Asia, Europe and Latin America, they are gaining greater acceptance in the United States as a means to obtain private financing for public infrastructure projects, such as toll roads, said Matthew F. Power, president of Risk Specialists Cos. Inc., a wholesale brokerage unit of American International Group Inc.

"What we are trying to do is look at the reality of the present economy and ask, 'Where can we grow our business?'" Mr. Power said. "Where we can grow our business is in P3s and stimulus-funded construction projects that will initiate very quickly."

18,750 "SHOVEL-READY" PROJECTS

Conference of Mayors lists jobs and infrastructure projects that are "ready to go" in 779 cities of all sizes and in all regions of the country. In billions of dollars.

Sector	Projects	Funding needed	Jobs created
Community development block grants	4,028	$26.5	385,256
Energy block grants and green jobs	1,378	$30.6	151,811
Transit equipment and infrastructure	807	$11.3	137,770
City streets/metro roads	4,724	$36.0	433,574
Airport technology and infrastructure	529	$5.5	47,061
Amtrak	50	$1.2	4,583
Water and wastewater infrastructure	4,029	$23.5	271,429
School modernization	1,066	$7.1	108,336
Public housing modernization	634	$2.5	25,160
Public safety jobs and technology	1,505	$5.7	39,391

Source: Conference of Mayors

ARRA likely to affect workers comp most

Money flowing to the property/casualty industry from the American Recovery and Reinvestment Act of 2009 will affect workers compensation insurance more than most other lines, an insurance economist predicts.

The 3.5 million jobs the stimulus package was designed to preserve or create will generate about $1 billion in workers compensation premiums to cover those workers, said Robert Hartwig, president of the Insurance Information Institute in New York.

"It doesn't mean that there is (going to be) a $1 billion surge in workers comp premiums written," Mr. Hartwig said. "You simply prevent some of those premiums from going away due to the associated layoffs."

The Arlington, Va.-based Associated General Contractors of America estimates that more than $135 billion of the package will fund construction and infrastructure investments, saving or adding 950,000 construction-related jobs and another 970,000 jobs outside of construction.

Maintaining premiums will help the workers comp industry, several sources said.

The nation's employment situation also will affect third-party administrators that charge employers and insurers on a fee-for-service basis for workers comp services. TPAs will feel a loss of revenue that could last years because of the long-tail nature of claims, said Eileen Auen, chairman and chief executive officer of Tampa, Fla.-based PMSI Inc., a workers comp pharmacy benefit manager and medical products company.

Already, TPAs that serve the construction and other hard-hit industries, such as retail, already are feeling the loss in business, Ms. Auen said.

Apart from workers comp, the stimulus package is expected to increase the sale of insurance products and services to various contractors, experts said.

Anticipated improvements to the nation's electrical grid and investments to make schools and government buildings more energy efficient could spur demand for coverages by electrical, plumbing and fire sprinkler contractors, said Jeffrey Langer, chief underwriting officer in Hartford, for Travelers Construction, a unit of Travelers Cos. Inc.

They may need coverage that includes insurance against property damage, third-party loss of income stemming from accidents and professional liability protection, according to Travelers.

—By Roberto Ceniceros

Commentary

Phelps photo leads to bigger cloud of smoke

ROBERTO **CENICEROS**

Senior Editor Roberto Ceniceros can be reached at: rceniceros@businessinsurance.com

When a 23-year-old is caught smoking pot, the discussion usually stays in the home. But when he is the winner of eight Olympic gold medals, a national hero and a valuable branding commodity, the conversation goes viral.

So it was with Michael Phelps and the recent photograph of the swimmer inhaling marijuana from a bong.

Across the blogosphere, in newspapers nationwide and on television news shows, pundits and average Americans weighed in on Mr. Phelps' indulgence. His photographed puffing opened a national discussion on how we feel about recreational pot use—a discussion with employer consequences that has surfaced in the past.

Past debates, however, have been more limited in scope. The controversy over whether communities are right to legalize medical marijuana dispensaries or federal drug agents are right to suppress them comes to mind.

That issue continues to make news, most recently when California's Laguna Woods Village, one of the nation's largest retirement communities with an average resident age of 78, supported an ordinance allowing medical marijuana to be sold in the town.

But stores in the affluent community are limited and none of the landlords with available space will rent to a cannabis dispensary, fearing the feds will carry out threats to confiscate the property of any landlord who does so.

Elsewhere in California, some voters who once supported medical marijuana use now are having second thoughts. They are concerned because too many of the dispensaries have opened in their neighborhoods. At least 12 states have adopted laws legalizing medical marijuana.

As for the broader discussion of recreational pot use that Mr. Phelps cracked open, some feel he may no longer be a worthy role model for children. Others pointed out that at least two of our presidents, including the current one, have confessed to smoking marijuana. So why can't we admit that millions of U.S. residents do so and decriminalize pot, they ask.

Mr. Phelps' sponsors also took sides. Kellogg dropped his image from cereal boxes. But Swiss watchmaker Omega reportedly called it a nonissue and a private matter, Speedo said Mr. Phelps remains a valued team member and Mazda will keep him on for an ad campaign in China.

The nation may be debating how to deal with pot, but employers are clear about their resolve to keep it from endangering the workplace, said Terrie Norris, a risk control manager for Bickmore Risk Services & Consulting in Long Beach, Calif.

The number of employers screening job applicants for drugs continues to grow, she told me.

Federal law requires drug screening for some occupations, such as transportation workers.

But the stakes also are high for other employers. Under workers compensation laws, an employer could lose its exclusive remedy protection if it knew an employee was frequently drugged and didn't address the problem, Ms. Norris said.

So, the debate continues and, as Mr. Phelps showed us, it's not likely to go up in smoke anytime soon.

Certainly, employers don't want some third-shift machinery operator injuring himself, coworkers or a third party any more than I would want a surgeon stoned while operating on a family member.

Apart from workplace considerations, many U.S. residents remain concerned about their children's safety and the issue of whether marijuana exposure leads to abusing alcohol and other drugs.

A check with ProCon.org shows the debate over whether marijuana is a "gateway" drug is a complicated issue that has yet to be conclusively determined. According to the educational organization, experts and studies weigh in on both sides with some convincing arguments.

So, the debate continues and, as Mr. Phelps showed us, it's not likely to go up in smoke anytime soon. What do you think? Write me at *rceniceros@businessinsurance.com.*

Business Insurance OPINIONS

Obama on right path to health care reform

IT WOULD BE WRONG to dismiss President Obama's remarks last week on health care reform and the administration's budget plan discussing reform principles as long on rhetoric and short on detail.

There is no denying that few new details came out last week. The administration, for example, didn't lay out all revenue sources needed to move the nation close to universal coverage, nor did it detail what new rules employers offering coverage would have to meet.

That lack of detail is neither surprising nor, do we think, disturbing. Given that President Obama has been in office only a few weeks, it would be unrealistic to expect him and his administration to have produced a detailed health care reform road map.

The administration intends to work toward enactment of health care reform legislation in the right way.

Just as important, we don't think it would be desirable for the administration to single-handedly produce such a plan. In something as complicated as health care reform, legislation needs to be a collaborative effort of the executive and legislative branches.

To his credit, President Obama says that is the path he intends to take.

We think President Obama's remarks and his proposed budget are significant in that the administration intends to work toward enactment of health care reform legislation in the right way.

Given the magnitude of the other issues facing the new administration, it would be understandable if President Obama put health care reform legislation on the back burner.

But that is not his plan, as he made clear, and that decision is a good one.

A health care system in which about 15% of Americans are uninsured and where costs—already the highest in the world—continue to outpace inflation is one that clearly is in need of major reform.

OFC gets a boost from Bernanke statement

FEDERAL RESERVE CHAIRMEN often speak in oracular terms, as former Fed Chair Alan Greenspan demonstrated repeatedly. Fortunately, successor Ben Bernanke sounded a bit more straightforward last week when asked his opinion on optional federal charters for insurers.

As we report on Page 3, Mr. Bernanke stopped short of endorsing the notion entirely, but he did say he thought the OFC was a "useful idea," particularly where "large, systematically critical insurance companies" are involved. He added that "holding company-level supervision of systematically important institutions is very important," noting that such oversight did not exist "in some of the cases where we have had problems. So I do believe an optional federal charter would be a direction worth giving serious consideration."

We couldn't agree more. We've long supported the OFC concept for insurers and producers. As Congress tackles issues of systemic risk regulation in general and insurance industry regulation in particular, the OFC demands careful consideration.

As we and other OFC supporters have noted before, we're under no illusions that effecting such a fundamental change in regulation will be either easily or swiftly accomplished. But Mr. Bernanke's straightforward assertion that the OFC is a "useful idea" when considering responses to the economic crisis can only help make reaching the goal of optional federal insurance regulation that much easier to achieve.

WRITE

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THIS WEEK'S RESULTS

Q How will economic conditions affect broker service levels?

Service will improve 33%

Service will worsen 41%

No change 26%

NEXT WEEK'S QUESTION

Q: How long will it take to achieve universal health care nationwide?

READ

Perspectives and expert analysis online at *www.businessinsurance.com/knowledgecenter*

National health reform's implications for workers comp

While legislation abounds in Congress to revamp the U.S. health care system, it is unlikely that any measure will specifically mention workers compensation, says Joseph Paduda, a principal of consultant Health Strategy Associates in Madison, Conn. However, changes to Medicare are likely and those certainly will affect workers comp because nearly all workers comp fee schedules are based on Medicare, says the national expert, speaker and author on managed care for workers comp and group health care.

LETTERS

Editorial mixes apples, oranges

TO THE EDITOR: Typical of the entire subject of commission disclosure and contingency payments and the brouhaha surrounding the topic, your uninformed editorial on Feb. 9, "N.Y. Transparency Rule a Start, not Endgame," continues to mix apples and oranges.

Brokers who work for fees from the insured and commissions from the companies should have to state their income sources as a few brokers abused their large clients and for that they are getting their just punishment.

We are small, independent insurance agents. We work for the customer, who is king. Retention of busi-

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HEALTH CARE REFORM

Success in Massachusetts stirs up interest in plan for near-universal health coverage in other states / Page 12

Tough economic times mean states need to scale back costs, push measures that do not require state funding / Page 14

BENEFITS MANAGEMENT

PIECE BY PIECE

Changing health care

Obama emphasizes need for health reform

President's budget sets aside $630B to fund expansion of coverage

By JERRY GEISEL

WASHINGTON—If there were any notions that the nation's massive economic problems would derail the Obama administration's commitment to reform the nation's health care system, President Obama last week tried to dismiss such beliefs.

Speaking before a joint session of Congress, President Obama reiterated his promise—made many times during last year's presidential campaign—to develop and win passage of sweeping reform legislation.

"We can no longer afford to put health care reform on hold," he told legislators. "Let there be no doubt: health care reform cannot wait, it must not wait and it will not wait another year," he said.

And in a budget outline released last week, the administration proposed setting up a $630 billion fund—generated in part by boosting taxes on higher-income individuals—to help pay for an expansion of coverage.

President Obama's message on health care reform could not be any clearer, Washington health care observers say. "The time has come for health care reform. That was his

See **REFORM** next page

Reform: New president serious about funding for health care reform

CONTINUED FROM PREVIOUS PAGE

bottom-line message," said Paul Dennett, senior vp at the American Benefits Council in Washington.

That wasn't President Obama's only message last week on health care reform. He also said that in developing a reform proposal, his administration will reach out to the public and to federal legislators on both sides of the aisle.

In fact, this week the administration plans to hold a health care summit in Washington where employers, employees, health care providers and Democratic and Republican members of Congress will give their opinions on the direction health care reform should take.

Holding a health care summit before crafting a legislative package is in sharp contrast to the way the last Democratic president, Bill Clinton, tried to win passage of health care reform legislation.

Shortly after taking office, President Clinton appointed Hillary Rodham Clinton to run a task force charged with developing a health care legislative reform package. The task force worked largely in secret and with little or no input from Congress.

When the 1,362-page proposal emerged in September 1993, it had few congressional backers and the proposal died quickly, while attempts to modify it failed.

REUTERS

The administration's drive for health care reform hit an early bump in the road when Tom Daschle, a former Senate Democratic Majority Leader and President Obama's choice to run a new White House health reform office, withdrew his nomination.

By seeking views from a broad range of interest groups, as well as from legislators, it already is clear that President Obama will not attempt a "top-down" approach in developing reform legislation.

"He will be more inclusive, with more details coming from Congress. He recognizes that, to be successful, there has to be congressional ownership" of a proposal, Mr. Dennett said.

"(President Obama) is going to work with Congress. He is not going to hand them a 1,362-page bill," said Chantel Sheaks, a principal in the Washington office of Buck Consultants L.L.C.

The Obama administration's strategy of working with Congress, rather than dictating a proposal, came through as a big economic stimulus bill worked its way through Congress. The bill was signed this month by President Obama.

In that case, Washington observers say, the administration worked closely with Congress—though almost exclusively through Democrats—rather than handing the legislative branch a take-it-or-leave-it package. Still, President Obama's intent to move quickly on health care should be tempered with the reality that something as complicated, controversial and costly as health care reform legislation will take time, observers say.

While health care reform is a top priority, the administration will have many issues to deal with, which could delay action on putting together a reform package.

"President Obama is faced with bigger problems than any other president in recent memory. He has two wars overseas and the most severe economic collapse since the 1930s. The bottom line is he has a lot on his plate," said Mark Ugoretz, president of the ERISA Industry Committee in Washington.

"Expectations should be modest, at least for a while," said Buck Consultants' Ms. Sheaks.

The administration's drive for health care reform hit an early bump in the road when Tom Daschle, a former Senate Democratic Majority Leader and President Obama's choice to run a new White House health reform office and be secretary of the Department of Health and Human Services, withdrew his nomination after acknowledging that he did not fully pay his income taxes.

There is no question, observers say, that Mr. Daschle's resignation will delay the administration's health care reform drive.

"He was smart. He had access. He was generous with his time and he could work through the issues," Mr. Ugoretz said.

"He was uniquely qualified to get the job done," said James Gelfand, senior health policy manager with the U.S. Chamber of Commerce in Washington.

Still, observers say the reform drive will continue, with only its start delayed somewhat by Mr. Daschle's withdrawal from the administration.

Meanwhile, experts say the likely Obama strategy will be to tackle health care reform issues gradually rather than in one fell swoop, with reform efforts starting on less controversial issues.

The first health care issue tackled by the administration was one pending for years: renewal of a program called the Children's Health Insurance Program, a federally funded and state-administered program that provides coverage to children in families whose incomes make them ineligible for Medicaid.

President George W. Bush vetoed legislation that would have expanded the program, but Congress passed CHIP legislation soon after the presidential inauguration and President Obama immediately signed it, handing the administration its first victory on health care legislation.

Another victory came last month when President Obama signed a broad economic stimulus bill with provisions that provide a 65% federal subsidy of COBRA premiums for employees who lose their jobs.

"With CHIP and COBRA, they are working around the edges as they move to build support for broader reforms," said Ted Nussbaum, North America director of group and health care consulting in the Stamford, Conn., office of Watson Wyatt Worldwide.

While it is too soon to say what will be in an Obama health care reform package, on the presidential campaign trail, he laid out in broad terms his view on the direction health care reform should take. His plan was roughly comparable to a 2006 state law that has moved Massachusetts very close to universal health insurance coverage.

Like the Massachusetts approach, President Obama, on the campaign trail, backed a play-or-pay system in which employers—except small firms—would be required to offer coverage meeting federal standards or pay a fee to help fund coverage for the uninsured.

Lower-income individuals would have their health insurance premiums subsidized by the federal government, which would contract with commercial health insurers to offer coverage.

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Interest growing in Bay State's health reform success

Massachusetts sees number of uninsured residents drop since '06

By JERRY GEISEL

BOSTON—Many were skeptical when Rick Lord, president and chief executive officer of Boston-based Associated Industries of Massachusetts, spoke to out-of-state business groups soon after Massachusetts enacted its groundbreaking health care reform legislation in 2006.

Now, Mr. Lord says, that skepticism has been replaced by a thirst for more information when he gives presentations about the Bay State's health care reform law.

There is good reason why business executives and many others nationwide want to know more about the Massachusetts law, the central goal of which is to move the state to near-universal coverage. Unlike the gulf that often separates legislative promises and lesser results after enactment, Massachusetts' 2006 law is an example where results have matched the vision.

"This has been an amazing success story," Mr. Lord said.

Last year, 97.4% of Massachusetts residents had health insurance, according to a survey conducted for the Massachusetts Division of Health Care Finance and Policy.

That's the highest coverage rate of any U.S. state and is in line with rates of western European countries with universal health care laws, said Jon Kingsdale, executive director of the Commonwealth Health Insurance Connector, the state agency implementing key parts of Massachusetts' law.

In fact, while health insurance coverage rates in many U.S. states have held roughly steady—at least until the recent sharp economic downturn—the percentage of Massachusetts residents with coverage has jumped.

In 2006, less than 90% of Massachusetts residents had coverage, according to the U.S. Census Bureau. In 2007 as the law was kicking in, the coverage rate neared 95%. By summer 2008, it had risen to 97.4%.

The growth to near-universal coverage levels is one part of the Massachusetts health care success story. Another is that the coalition of business, consumer, insurer and hospital groups that worked together to devise the legislation has largely stayed together.

"All have remained committed to the core mission of reducing the number of uninsured without burdening stakeholders," said Phil Edmundson, chief executive officer of William Gallagher Associates Insurance Brokers Inc. in Boston.

"We have been willing to accept compromises to make the law work," AIM's Mr. Lord said.

Law widely accepted

Unlike in San Francisco, where a lawsuit by a restaurant owner trade group is pending years after passage of a measure that went into effect in 2008 requiring employers to spend specific amounts on health care, the Massachusetts law has not resulted in any litigation and is widely accepted.

A poll last year by the Harvard School of Public Health and Blue Cross Blue Shield Foundation of Massachusetts found that 69% of Massachusetts adults supported the law, up from 61% in 2006.

> **'All have remained committed to the core mission of reducing the number of uninsured without burdening stakeholders.'**
>
> Phil Edmundson,
> William Gallagher Associates
> Insurance Brokers Inc.

The reason the law has worked so well and is so widely accepted is a testimony to the way the legislation was put together, state observers say. In contrast to a plan crafted by the Clinton administration in 1993 that would have dismantled the employment-based system in favor of one where health care would have been delivered through state and local government cooperatives, the Massachusetts law largely left employer plans alone.

"We built on the existing employer-based system, filling in gaps where necessary" with new programs, said Mr. Lord, who also is a member of the Connector Board.

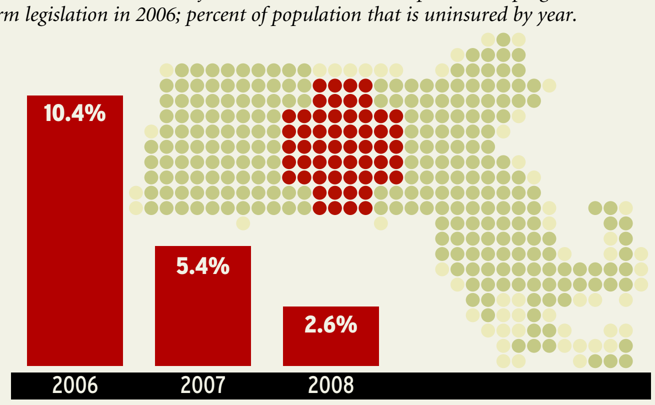
Under the law, employers can offer the same health care plans they previously did. An annual $295 per employee assessment applies to employers with between 11 and 50 employees that don't cover at least 25% of full-time employees in their health care plans or pay at least 33% of the premium for individual coverage.

Larger employers have to meet

Continued on next page

MOVING IN THE RIGHT DIRECTION

How the uninsured rate has fallen since Massachusetts passed sweeping health care reform legislation in 2006; percent of population that is uninsured by year.



Sources: 2006, 2007, U.S. Census Bureau; 2008, Massachusetts Division of Health Care Finance and Policy

CONTINUED FROM PREVIOUS PAGE

the coverage and premium requirements. Alternatively, larger employers that don't pay 33% of premiums are exempt from the assessment under a safe harbor provision if at least 75% of full-time employees are enrolled in their health care plans.

What has changed, though, is that state residents must have health insurance coverage to avoid assessments up to $1,000 a year.

Massachusetts is the only state to impose an individual health insurance mandate, which has been a huge factor in reducing the uninsured rate. In fact, the Division of Health Care Finance and Policy estimated last year that of the 442,000 newly insured state residents, 147,000 were in employer-sponsored plans.

"There were a lot of people who had access to coverage but did not sign up," Mr. Lord said.

The law also subsidizes premiums—in some cases completely—for low-income uninsured residents. In fact, about 163,000 previously uninsured residents now have coverage through a Connector program called Commonwealth Care. Six health insurers representing about 90% of the state's commercial market offer policies through Commonwealth Care.

To approach universal coverage, "you can't just mandate that people have health insurance. You also have to provide access to affordable coverage. The two go hand in hand," Mr. Lord said.

For example, an uninsured individual earning between $15,613 and $20,808 can obtain health insurance coverage through Commonwealth Care by paying a monthly premium of $39.

Cooperation helpful

Another reason behind the Massachusetts success story, observers say, has been the willingness of regulators to listen and respond to concerns.

Perhaps the best example was last year's Connector Board decision, which responded to employer concerns, to revamp a rule that would have required employers to offer a rigid set of benefits so employees could avoid assessments for not being enrolled in plans with so-called minimum creditable coverage.

Under the revamped rules, health care plans with an actuarial value at least equal to bronze-level plans, which offer the lowest level of benefits through the Connector, would meet minimum coverage requirements. Mainstream employer plans easily meet that requirement.

"We really looked for feedback on this one," said Mr. Kingsdale.

While the law has met its prime objective of moving Massachusetts close to universal coverage, challenges remain.

"If costs continue to go up, where will the state get the money" to continue to subsidize premiums? asked Rich Stover, a principal with Buck Consultants L.L.C. in Secaucus, N.J.

"Cost containment will be tough stuff," Mr. Kingsdale said.

In fact, the state budgeted $869 million for Commonwealth Care for fiscal 2009. That's nearly 20% higher than what state legislators projected for fiscal 2009 when they put the law together three years ago.

That increase, state officials say, has been driven largely by higher-than-anticipated enrollment in Commonwealth Care. Still, average premiums rose more than 9% for Commonwealth Care for fiscal 2009.

But premium increases for fiscal 2010, which begins July 1, could be in the 2% range depending on the outcome of negotiations with insurers, Connector officials say.

Because the law is still new, it is not known whether the increase in people with insurance will lead to earlier detection of medical problems before they require costly treatment. Still there are encouraging signs.

As insurance coverage has expanded, payments made through a state program known as Health Safety Net to hospitals and community medical centers to reimburse them for treating the uninsured—often in emergency room settings—have shrunk.

Health Safety Net payments to health care providers fell 41% to $98 million in the first quarter of fiscal 2008—the latest data available—compared with the same period a year earlier, according to the Division of Health Care Finance and Policy.

Economy forces states to shift focus on health reform

Measures that don't require state funding more likely to get OK

By JOANNE WOJCIK

Mounting budget deficits during 2008 forced state lawmakers to shift their focus away from trying to achieve universal health insurance coverage toward more incremental reforms of the health care delivery system.

Measures aimed at increasing cost transparency, redesigning the payment model and improving quality of care were among those most likely to pass because few of these required any state funding.

While state efforts to expand coverage for children were hampered by the lack of state and federal resources, Colorado, Florida, Iowa, Kansas and Minnesota still managed to expand their children's health insurance programs, while New Jersey lawmakers passed an unfunded and unenforced mandate that all children age 18 and younger have insurance coverage.

State legislative activity aimed at health reform slowed even further after the November election of Democrat Barack Obama as president, with many lawmakers instead setting their sights on Washington and hoping for a national solution.

Meanwhile, Massachusetts, Vermont and Maine are chugging along with reforms passed earlier in the decade. While Massachusetts' law has been relatively successful, halving the uninsured rate in the state to just 3%, its neighboring states still are struggling (see story, page 12).

"If you take a look at state efforts over the last 10 to 12 years, they picked up after federal health care reform died. So as the cost of uncompensated care became more and more expensive, states tried to solve the uninsured problem locally," explained J.D. Piro, an attorney at Hewitt Associates Inc. based in Norwalk, Conn.

Now that the health reform debate has resumed in Washington, "the less likely you're going to see state efforts go forward," Mr. Piro said.

"Many states have decided to hold off from moving quickly until things at the federal level become a little clearer," agreed Amy Berger, a principal and an attorney at Mercer L.L.C. in Washington. "States are facing huge budget deficits and, while health care is a contributor, it's expensive to enact new reforms."

"The economy is one of the things holding back (health reform at a state level) the most, said Vermont state Sen. Kevin Mullin, R-Rutland.

But Laura Tobler, a legislative analyst at the National Conference of State Legislatures in Denver, said she expects the American Recovery and Reinvestment Act signed there on Feb. 17 to reduce economic pressures on some states, freeing them up to consider at least some sort of modest reforms.

"ARRA takes some of the pressure off legislatures to spend all of their time on balancing the budget. It may help states already poised to devote some time to health reform," she said. "Universal coverage won't happen. But some states are going forward with quality initiatives and payment reform."

For example, Minnesota in 2008 modified its provider reimbursement system to pay based on episodes of care rather than on a straight fee-for-service basis. The state's Omnibus Health and Human Services bill enacted last July also establishes a pay-for-performance program for Medicaid and a certification program for medical homes, where a single physician coordinates all the care for an individual; gives consumers online access to provider price and quality information; and requires that all prescription orders be made electronically by 2011. The legislation also included a grant program to help small employers establish Section 125 plans that allow individuals to pay insurance premiums on a pretax basis.

AP

Maine's DirigoChoice, a state-subsidized program, was dealt a crippling blow in 2008 after state residents there voted down a beverage tax that would have helped fund the program.

While nearly half of the states debated whether to collect and publish data on provider charges and medical outcomes, only nine transparency laws were enacted during 2008.

Lawmakers in Colorado, Florida, Kentucky, Louisiana and South Dakota passed legislation requiring state officials to collect and publish data on provider charges for the most common health care services and procedures. In addition, Iowa, Louisiana, Rhode Island, Washington and West Virginia now require health care providers to disclose their hospital-based infection rates and/or medical outcomes data.

Because of the success of Massachusetts' landmark health care reforms, many health care industry experts had expected other states to follow its lead and enact similar legislation. However, pay-or-play mandates requiring employers to provide health insurance to their workers failed in seven states, while individual mandates were defeated in four others.

California's bill, a compromise measure worked out by Republican Gov. Arnold Schwarzenegger and Democratic Assembly Speaker Fabian Nunez, would have required employers to provide coverage to their workers or pay a 4% payroll tax to the state, which would provide it on their behalf. But it died in the Senate Health Committee in January after lawmakers realized the state's burgeoning budget deficit would make it unaffordable.

"They found out if they only charged 4% for health care they were inviting employers to dump their health plans and get coverage from the states. But 4% wasn't enough to cover the cost," said Hewitt's Mr. Piro.

Meanwhile, in New Mexico, the legislature adjourned without passing Gov. Bill Richardson's universal coverage legislation that called for an employer pay-or-play mandate and an individual mandate.

Maine's DirigoChoice, a state-subsidized program created in 2003 for individuals and small employers, was dealt a crippling blow in 2008 after state residents there voted down a beverage tax that would have replaced a controversial assessment on health insurers that helped to fund the program.

"It was tough time for a tax of any kind," said Elizabeth Mitchell, executive director of the Maine Health Management Coalition, a Scarborough-based employer health coalition.

Now Maine lawmakers are considering other incremental changes to expand access, but also quality and transparency measures that would promote health information technology and reform the individual and small group markets, Mercer's Ms. Bergner said.

A measure in Vermont two years ago, that in many ways was similar to Massachusetts' reform law, also is off to a slow start. Implemented on Oct. 1, 2007, enrollment growth has been slow.

"I don't think it's doing that badly," defended Sen. Mullin. "We would be close to the Massachusetts' level if the people who qualified for government programs signed up."

The program's goal was to enroll 25,000 individuals by 2010, cutting the state's uninsured rate to 4%. However, by the end of 2008 only 7,052 people had enrolled in the program.

Critics say Maine's and Vermont's reforms are being hampered by the fact that neither law includes an employer pay-or-play or an individual mandate, both of which are in the Massachusetts law.

"That is one of the big differences," said Ms. Mitchell. "I think that the mandate was really important to making it work."

Products & Services

Catastrophe models target Europe, Asia

ANDOVER, Mass.—Weather Services International Corp. has expanded its catastrophe models for Europe and launched a model for eastern Asia.

WSI PreCat Forecast Europe will deliver forecasts on windstorm numbers and locations during the upcoming European storm season. PreCat can be integrated with WSI's LiveCat Forecast Europe, which provides predictions on developing storm paths up to 10 days prior to the event.

When used in tandem, users will receive monthly forecasts from June through November, and two daily updates from October through March. Bulletin formats can be customized, WSI said.

In addition, WSI has rolled out WSI LiveCat Forecast Pacific to project the path and intensity of storms in eastern Asia.

The risk management tools were developed in response to reinsurance market demand, according to the Andover, Mass.-based unit of the Weather Channel Cos.

For more information, contact Todd Crawford, principal scientist at WSI, at *tcrawford@wsi.com* or visit *www.wsi.com*.

Assurex launches online communication tool

COLUMBUS, Ohio—Assurex Global Partners said it has rolled out an online tool to streamline communication between brokers and insurers and improve the process of placing coverage for insurance buyers.

XpertConnect is a search engine and real-time database that allows brokers within the Columbus, Ohio-based insurance brokerage's network to communicate with each other and collaborate on placements, the company said. The program also connects users with insurers in more than 80 countries, Assurex said.

Assurex teamed with Austin, Texas-based technology company ProspX Inc. to set up the platform, which will serve more than 100 brokers.

For more information, contact Ric Mazon, vp-partner development, at Assurex at *rmazon@assurexglobal.com* or Jill Ford, marketing manager, at ProspX at *jill.ford@prospx.com*.

Lockton effort focuses on outsourcing, IT risk

KANSAS CITY, Mo.—Lockton Cos. L.L.C. said it is launching risk management services designed to help firms reduce exposures associated with outsourcing and data breaches.

Both services—vendor risk management and contract governance, and designing a security breach incident response plan—focus on concerns about risks associated with outsourced and offshore business functions and information technology applications, the Kansas City, Mo.-based brokerage said in a statement.

The program includes workshops, client consultations, access to legal and security experts, and other resources to help clients develop and implement an effective risk management program, Lockton said. The program serves policyholders of London-based Ace Global Markets and Brit Syndicates Ltd. and Bermuda-based Hiscox Ltd.

For more information, contact Emily Freeman, executive director of Lockton's technology and media team in London, at 44-207-933-2224 or *emily.freeman@uk.lockton.com*.

Insurance Services Office adds Medicare service

JERSEY CITY, N.J.—Insurance Services Office Inc. has added a Medicare reporting service to its claims database capabilities, which it said will help insurers and self-insured organizations comply with new law.

The ISO ClaimSearch Medicare Secondary Payer Reporting service was developed to address Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007, which requires organizations to report bodily injury claims filed by Medicare-eligible claimants to the Department of Health and Human Services, according to the Jersey City, N.J.-based company.

The service is available to ISO ClaimSearch subscribers and the Medicare reports will be processed on behalf of participating organizations.

The database program also has a Medicare eligibility query function, automated claim file submissions and a process to handle responses from the Center for Medicare and Medicaid Services.

For more information, contact Bryan Berkowitz, ISO ClaimSearch compliance specialist, at 201-469-3095 or visit *www.iso.com*.

TO SUBMIT ITEMS

***BI*'s Products & Services column reports on new product offerings. Please send Product & Services news to Colleen McCarthy, 711 Third Ave., New York, N.Y. 10017 or e-mail *cmccarthy@business insurance.com*.**

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SPOTLIGHT

PEOPLE TO WATCH

BUYERS TIGHTEN BELTS

Tough road for risk managers

Cost-cutting in benefits

Uncertainties shadow health care, retirement plans

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LEGAL NOTICE

THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

IN THE MATTER OF THE LIQUIDATION
OF ALPINE INSURANCE COMPANY
NO. 99 CH 267

NOTICE TO INSUREDS OF ALPINE INSURANCE COMPANY AND TRANSCO SYNDICATE #1, LTD., PERSONS HAVING CLAIMS AGAINST INSUREDS, INSURANCE COMPANIES POSSESSING CLAIMS FOR CONTRIBUTION OR RIGHTS OF SUBROGATION, AND OTHER GENERAL CREDITORS OF NEW CLAIM FILING DEADLINE AND PROCEDURES

Pursuant to an order entered by the Circuit Court of Cook County, Illinois (the "Supervisory Court"), the Liquidator of Alpine Insurance Company ("Alpine") recently paid in full all claims filed on or before the original claim filing deadline of May 6, 2002 (the "Original Claim Filing Deadline") that were allowed at priority levels (a) through (g) of Illinois' statutory distribution schedule, 215 ILCS 5/205(1)(a)-(g).

Subsequent to paying these claims in full, the Liquidator determined that a surplus of estate assets exists. Acting upon the petition of the Liquidator, on January 21, 2009 the Supervisory Court entered an order setting a **new claim filling deadline of May 26, 2009** for purposes of affording claimants who may still have claims, or who already have a late-filed proof of claim pending with the Liquidator, an opportunity to share in any distribution of Alpine's assets that may be made on allowed claims filed on or before May 26, 2009. Potential claimants include, but may not be limited to: insureds, persons having claims against insureds, insurance companies possessing claims for contribution or rights of subrogation, and other general creditors. Potential claimants also include claimants and creditors of Transco Syndicate #1, Ltd. ("Transco"), all of whom had the liability for their claims assumed by Alpine.

Claimants, who filed claims on or before the Original Claim Filing Deadline that have already been evaluated by the Liquidator and fixed in amount and paid by the estate by order of the Supervisory Court, and/or paid by a state insurance guaranty fund, can not re-file the same claim unless they have evidence of additional losses that were not submitted to the Liquidator for consideration as part of his previous evaluation of the claim. Any claimant whose proof of claim was filed after the Original Claim Filing Deadline (late-filed claims) need not re-file their claim, unless they have evidence of additional losses that were not previously submitted to the Liquidator for consideration.

If you believe you have a valid unsatisfied claim against Alpine, including claims against Transco, and wish to file a claim, a proof of claim form may be requested either: (1) by a written request sent to the following address: Alpine Insurance Company, In Liquidation c/o the Office of the Special Deputy Receiver, located at 222 Merchandise Mart Plaza, Suite 1450, Chicago, Illinois 60654; or (2) a request submitted through the Liquidator's web site using the following URL: www.osdchi.com/select_proof_of_claim.htm. For administrative purposes, a request for a proof of claim form should include the following information: your name and address, the claimant's name (if different), the Alpine or Transco policy number, the date of the loss or accident, and, if available to you, the Alpine or Transco claim number.

Proper proofs of claim, including claims for additional losses that were not previously submitted to the Liquidator for consideration, shall consist of a notarized statement, by letter or otherwise, signed under oath, setting forth the specific claim. Whenever a claim is based on a document, the document, unless lost or destroyed, must be filed with the proof of claim. If the document has been lost or destroyed, a statement of that fact and of the circumstances of the loss or destruction must be included in the proof of claim. The Liquidator reserves the right to require such additional information with respect to any claim filed with him as he may deem necessary.

Your proof of claim must be filed with the Liquidator on or before May 26, 2009. A proof of claim shall be treated as filed as of the date it is actually received by the Liquidator. A proof of claim shall also be deemed to have been filed as of the United States Postal Service's postmark date if it is mailed, or the date of delivery to a private mail courier for delivery to the Liquidator, as evidenced by a validly issued receipt from that courier. Subject to the provisions of Section 208(3) of the Illinois Insurance Code, proofs of claim not filed by May 26, 2009 shall not be eligible to participate in any distribution of Alpine's assets that may be made in the liquidation proceedings on allowed claims filed on or before May 26, 2009.

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UP CLOSE
Comings & Goings

KEVIN TOTH

NEW JOB TITLE: Harleysville, Pa.-based senior vp and chief underwriting officer for Harleysville Insurance Group Inc.

PREVIOUS POSITION: Senior vp and chief claims officer for Harleysville.

GOALS FOR NEW POSITION: One of the advantages I have is I am stepping into a very well-managed operation. Harleysville has a very strong retail presence and strong product development and underwriting team at the home office. We do something we consider unique in that we push underwriting resources as close to our agents and as close to our policyholders as we can. I hope to build on that platform and continue to provide valuable tools and guidance to our field underwriters. We are committed to this structure.

CHALLENGES FACING THE INDUSTRY: The past year has been an interesting year for the industry. The industry saw a high catastrophe loss activity. The industry also was faced with investment impairments that took a fair amount of surplus out of the industry. As the industry looks at the reinsurance market and the anticipated higher costs going forward, that's going to present some issues that will require insurers to manage their margins more closely than in the past.

FIRST EXPERIENCE IN THE INDUSTRY JOB MARKET: My first job in the industry was vp and chief litigation counsel. I was responsible for overseeing litigation and litigation support, including both our house counsel operation and our panel of outside counsel. My first assignment was to review and assess our outside counsel and consolidate to a smaller number of firms. It was a challenging opportunity for someone who had just left a private law firm. I had now "changed sides" and was setting litigation policy rather than handling cases.

ADVICE: One of my perceptions about the insurance business is that those who can be most successful...are those that have the broadest view of the industry, the broadest appreciation for all the dependencies that are at work...My advice is to have a broad understanding of the industry.

OUTSIDE THE INDUSTRY, A DREAM JOB: A cast member on "Saturday Night Live."

Comings & Goings ONLINE

VISIT ***www.businessinsurance.com/ComingsandGoings*** for a full list of this week's personnel moves and promotions. Check our Web site daily for additional postings and sign up for the weekly e-mail.

TO SUBMIT ITEMS

Business Insurance would like to report on senior-level changes at commercial insurance companies and service providers. Please send news and photos of recently promoted, hired or appointed senior-level executives to:

Allison Martinat
Business Insurance
360 N. Michigan Ave.
Chicago, Ill. 60601-3806

amartinat@businessinsurance.com

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- Mutual Service Office Inc.
- Torus Insurance (Holdings) Ltd.
- Meritain Health Inc.
- Hewitt Associates L.L.C.

MANAGED CARE:
- Capital District Physician's Health Plan Inc.

LETTERS

CONTINUED FROM PAGE 8

ness is a major concern of independent insurance agents. If we do not place our customer with a competitive company irrespective of commissions, profit sharing, etc., we lose that customer. This seems very difficult for some people to understand, including your editorial writers.

We receive commission and if our book with a given company is profitable, we receive profit sharing. The good ol' American way of rewarding above-average performance!

During this entire process, the word "contingency" is thrown about without definition within the industry. As I understand the core of the abusive problem that raised its ugly head—the contingency practice of brokers' bid-rigging and negotiation of upfront fees with companies for the placement of large brokered accounts and then adding commissions, in many instances—needed to be addressed and it has been.

Don't confuse contingency income by the above definition with what the small independent insurance agencies receive in the form of profit sharing. When *Business Insurance* applies a broad brush to the word "contingency," it is not only confusing, but I consider it to be disingenuous.

The smaller independent agents (as compared with the large brokers) do not need to provide any disclosure as it is assumed by any insured that their agent receives a commission and it is no secret. Just like any other sales- or servicepeople.

To add on the backs of the smaller, independent agents the disclosure expenses and to add that onto the companies represented in reality is to increase the cost of insurance to the consumer that everyone is concerned about.

Get your facts right. Stop mixing apples (contingencies as used in the past by large brokers) with oranges (profit sharing for the smaller agent as a reward for being a profitable partner with their represented companies).

Call it a bonus if that clarifies it for you. In our disappearing free-enterprise system, there are virtually no fields where some form of performance compensation is not expected or allowed.

Little wonder this debacle continues to smolder, consuming everyone's time.

Comparing apples and oranges will have that result.

Jim Masiello
Chairman and
Chief Executive Officer
Strategic Independent
Agents Alliance
Hampton, N.H.

Real detractors deserve the focus

TO THE EDITOR: May I respectfully comment on Joanne Wojcik's commentary ("President Should Light the Smoke-free Path, *BI* Feb. 16)?

According to Ms. Wojcik, if Americans would only stop smoking, our health care problems and lost productivity in the workplace would be taken care of. Ms. Wojcik is obviously obsessed with smoking.

So obsessed, she throws up smoke screens so that we view the venial sin as the one and only deadly sin. Ms. Wojcik is proud to shun "junkies" who carry odors and hazardous wastes on their clothing and are walking emitters of "thirdhand smoke."

One would think that it would be much healthier to shun real junkies of "drugs" like heroin and cocaine…and pornography…and greed. It is indeed these unfortunate lifestyle choices that are the real detractors to health and productivity. By the way, I haven't met any "thirdhand smoker," but I am sure I will smell one one of these days in an elevator and hope to live through the experience.

Mario C. Ciano
Reminger Co. L.P.A
Cleveland

401(k): IRS finalizes rules for automatic enrollment

CONTINUED FROM PAGE 3

the distribution will not be subject to the 10% penalty tax that generally is imposed on withdrawals from 401(k) plans prior to age 59½.

Although employers had been anxiously awaiting the rules governing automatic enrollment in QACAs and EACAs since they were authorized under the Pension Protection Act of 2006, it is unlikely there will be a rush to introduce either of these types of programs, benefit consultants say.

Because of the economic downturn, employers are hesitant to introduce a plan design that would require a matching contribution or increase any existing contribution, according to Valerie Kupferschmidt, ERISA counsel at Hewitt Associates Inc. in Lincolnshire, Ill.

"The timing was not the best," agreed Sally Wheeler, a director at PricewaterhouseCoopers L.L.C. in Washington. However, it could have been worse, she said. If the rules had been released earlier and employers implemented the new types of plans before the recession began, they'd be locked into making a matching contribution that they may no longer be able to afford, she said.

> **90 days**
>
> **ELIGIBLE** automatic enrollment arrangements allow employees who opt out of automatic enrollment to withdraw and cease their contributions within 90 days, but they may not be entitled to a matching contribution.

Fortunately, other types of automatic enrollment features can be added to 401(k) plans besides QACAs and EACAs, Ms. Kupferschmidt pointed out, noting that not all employers are interested in the special benefits available through either design.

She advised employers to conduct a cost-benefit analysis to determine which type of automatic enrollment feature is right for them.

Worker productivity falls when depression goes untreated

Early intervention helps curb costs, experts advise

By JOANNE WOJCIK

LOS ANGELES—Early and effective treatment of employee depression can lower employers' health care costs and boost workers' productivity, research is finding.

With more than one in 10 U.S. residents likely to be diagnosed with the disorder during their lifetimes, depression often is referred to as the "common cold of mental health," said Tom Parry, president of the San Francisco-based Integrated Benefits Institute.

Unfortunately, there often are significant delays in treating depression, with a median time of eight years between onset of the condition and diagnosis and treatment, Mr. Parry said during a session on "The Real Costs of Depression in the Workforce" during the Feb. 9-11 IBI/National Business Coalition on Health's 2009 Health & Productivity Forum in Los Angeles.

This can lead to sizable workplace productivity losses (see box) because undiagnosed employees tend to have higher absentee rates and usually do not perform at full capacity when they are at work, he said.

"It's the people who don't get treated who have the biggest workplace impact," agreed Dr. Ron Kessler, professor of the department of health care policy at Harvard Medical School, during a preconference workshop that discussed "Measuring Health & Productivity: Employers, Coalitions and Data Strategies."

Unintended consequences

To illustrate how lack of treatment for depressive disorders can affect an organization, Dr. Kessler recalled the experience of one employer that raised copayments in the mid-1990s for mental health treatment. The unidentified employer saw sick days increase nearly 22% among individuals who discontinued treatment for depression after the copayments were increased.

Conversely, an ongoing study of the effects of evidence-based depression treatment has found a reduction in absences, accidents, disability leaves and health care costs after just six months, with those gains continuing for 12 months after that, said Dr. Kessler, who is among researchers conducting the analysis.

"The cost of the intervention was about $450 per person," Dr. Kessler said. "The return on the investment was close to $2,000."

Gauging costs

Mr. Parry said the best way for employers to determine how much they should invest in prevention, diagnosis and treatment of depression is measuring how much it costs their organizations in health care spending and productivity losses.

To give employers a better idea of the overall cost of depression, IBI is conducting its own research of the link between depression, disability and productivity, beginning with a claims-level view of medical and disability claims and integrating absence, presenteeism and lost productivity data.

The study, which is to be published in April, will provide actual health care costs and productivity losses associated with treating individuals on disability either for depression alone or depression as a comorbid condition.

In addition, IBI is developing a lost productivity calculator in collaboration with Sean Nicholson, an associate professor at Cornell University. The calculator will be available in less than 90 days, Mr. Perry said.

"Employers are always strapped for financial resources," Mr. Parry said in an interview. "Spending the health care dollar more wisely can boost productivity."

COSTS OF DEPRESSION

- Approximately 10% of 400,000 workers studied have received medical treatment for depression.
- 70% of employees who reported being depressed received no medical treatment.
- Nearly two-thirds of depression-related productivity losses are due to presenteeism, or not performing at full capacity while at work.

Source: Integrated Benefits Institute, Research Insight January 2009

Health & Productivity Forum draws 270

LOS ANGELES—A total of 270 members of the employee benefit community registered to attend the 2009 Health & Productivity Forum jointly sponsored by the Integrated Benefits Institute and the National Business Coalition on Health.

The conference was held Feb. 9-11 in Los Angeles.

It was the first time San Francisco-based IBI and the Washington-based NBCH jointly hosted such an event, which included presentations on research linking employee health to productivity, as well as on best practices in absence and disability management, addressing behavioral health issues among employees and on various health care cost- and time-saving strategies.

Specifics of the 2010 forum have not yet been set. For more information, visit *www.nbch.org* and *http://ibiweb.org/*.

—By Joanne Wojcik

Health: Stress also an issue

CONTINUED FROM PAGE 4

direct medical costs.

"Health conditions and health risks—conditions that are not well-managed—can have a significant impact on workers' productive capacity," said Dr. Ron Loeppke, co-chair of the American College of Occupational and Environmental Medicine Section on Health & Productivity, during an interview after a panel discussion he moderated.

For every dollar an employer spends on medical and/or pharmacy costs, health-related productivity losses will average $2 to $3, he said.

Mental stress also can significantly affect worker productivity, Dr. Loeppke said. The study found that stress, and related illnesses such as anxiety and depression, may be one reason why so many white-collar workers feel the need to work more than 40 hours a week, he said.

"There is no impact on absenteeism because they'll just work until they get the job done. They'll work on weekends. They'll work nights. And given this economy, it isn't just the executives; it's all ranks. Stress does have negative impacts," he said.

"Given the dire economic situation we're in, that stress may be one of the most unmitigated environmental toxic exposures we face as a society," Dr. Loeppke said. "We have to really focus on being proactive in helping people cope."

To determine lost productivity, employers need to look beyond absenteeism, said Adele Spallone, head of clinical services for disability and absence management at Aetna Inc., during a conference session.

"It's not only about absenteeism, but it is about presenteeism and productivity. How much someone is able to produce on the job while they are dealing with behavioral illnesses. It is costing employers $44 billion a year in lost productive time," she said. "It equates to 5.6 hours lost per week per employee."

For depression, 71% of the economic burden on employers is related to presenteeism, Ms. Spallone said, citing WHO's Global Burden of Illness Initiative findings. "It's very hard for an employer to determine which employee is not fully functioning in their role. A lot of times it is mental stress that is going on in the brain while somebody's doing their job, but they are not performing at capacity," she said.

Some smaller employers follow example of larger rivals with onsite medical care

By JOANNE WOJCIK

LOS ANGELES—Contrary to popular belief that worksite clinics are feasible only for large employers, small and midsize employers are finding that they, too, can turn to onsite clinics to help reduce health care costs.

"We loved the concept of onsite clinics, but struggled for a long time with being able to put one in an environment in our region where we have small employers," said Lisa Gish, executive director of the Tri-State Business Group on Health. The Douglasville, Ind.-based employer coalition has members in Indiana, Kentucky and Ohio that average 350 employees.

"So we needed a model that would service that size population. This model will work for an employer with as few as 120 employees in one location," Ms. Gish told the San Francisco-based Integrated Benefits Institute and Washington-based National Business Coalition on Health's 2009 Health & Productivity Forum in Los Angeles.

To make such clinics feasible for a smaller population, the coalition contracted with a provider that was willing to operate worksite facilities on a part-time basis, combining acute and chronic care management with preventive and wellness services. The clinic operator also provides a toll-free nurse hot line 24 hours a day, seven days a week as well as health coaches.

All clinic services are provided by appointment only. Employees can schedule a visit either by phone or online. Appointments typically last 20 minutes, and wait times average two minutes. The clinics' office visits that are nearly three times as long as the typical doctor's office provide time for employees to establish relationships with doctors, essentially making each clinic an employee's "medical home," Ms. Gish said.

In addition to primary care services, the clinics provide laboratory services and have a pharmacy stocked with more than 100 commonly prescribed generic drugs and a few cost-effective brand-name medications. Although radiology services are outsourced, the clinics are looking into the possibility of contracting with a local radiology center to bring the services onsite.

Each patient's personal information, such as lab results and medications, is stored in an Internet-based electronic health record that also includes results of annual health risk appraisals and biometric screenings. Employees and their doctors can access their EHRs via the Internet. Employers sponsoring the clinics receive only aggregate information. Two clinics already are in operation and several more are planned.

To encourage employees to use the clinics, all copayments are waived. Spouses covered by a company health plan also are welcome to access the clinics, Ms. Gish said.

The goal is to move 50% of employees' primary care visits to the clinic, where employer costs are significantly less because they pay wholesale prices for drugs and supplies and compensate doctors and other staff on an hourly basis rather than on a fee-for-service basis, she said.

For example, Evansville, Ind.-based Vectren Corp. pays 62% less for medical care delivered by its worksite clinic than outside providers, even though their services are significantly discounted through their network contracts.

"That's what it averages out to," said Holly Joseforsky, manager of health and welfare plans at Vectren, an energy supplier with 1,800 employees in Indiana and Ohio. "That's a substantial savings for us."

Because the Vectren clinic, which serves 600 employees in Evansville, can purchase prescription drugs at wholesale prices, the employer is paying an average of 49% less than it does through an energy industry drug-purchasing collaborative to which it belongs, Ms. Joseforsky said.

Moreover, lab work performed in the clinic costs an average of 59% less than outside lab work even after preferred provider organization discounts are factored in. The clinic is open for office visits 30 hours per week and for other services, such as filling prescriptions, 36 hours per week.

The clinic has been so successful in reducing Vectren's health care costs that the company is building a second clinic in another location, Ms. Joseforsky said.

Wind: Marsh, Berkshire launch program

CONTINUED FROM PAGE 4

threshold, said Bertil Olsson, the Houston-based managing director of Marsh's energy practice.

The program is underwritten by members of the Berkshire Hathaway Group and will be sold by Marsh.

Shrinking capacity and the growth of more restrictive coverage prompted the creation of the Triple C Facility, Mr. Olson said.

Lloyd's specialty insurer Advent Capital (Holdings) P.L.C. in January announced it no longer would write Gulf of Mexico offshore energy business with windstorm exposure because of revised damage estimates from Hurricane Ike, which increased Advent's projected losses from about $22 million to about $61 million. Some brokers last month predicted that capacity would shrink by as much as 50% this year.

"The series of severe hurricanes that struck the Gulf of Mexico during the past five years have drained insurance capacity and left many energy firms with few, if any, alternatives to obtain the levels of coverage they require at stable prices," Jim Pierce, chairman of Marsh's global energy practice, said in a statement.

One risk manager welcomed the facility.

"I think any help right now would be beneficial," said one risk manager for an energy firm in the Gulf of Mexico, who asked not to be identified. The risk manager said market pricing was hard enough that one drilling company recently raised its deductible from $10 million to $25 million to avoid dramatic rate hikes.

Most Gulf windstorm policies renew in the spring.

Hurricane Ike destroyed 60 production platforms and caused more than $1 billion in offshore damage, according to modelers and the U.S. Minerals Management Service.

REUTERS

Hurricane Ike in 2008 destroyed 60 production platforms and caused billions in dollars of offshore damage in the Gulf of Mexico.

Advisen: D&O suits on the rise

CONTINUED FROM PAGE 4

pattern with financial institutions continuing to bear the brunt of not only subprime/credit crisis suits, but also of suits triggered by the alleged $50 billion Bernard Madoff Ponzi scheme and other alleged investor frauds."

But as the economy deteriorates this year, "securities litigation will undoubtedly spread beyond the financial services sector, driven substantially by mounting bankruptcies and corporate debt defaults," the report said. "In 2007 and 2008, more than three-quarters of large public companies filing for bankruptcy were also named in securities class action suits."

"Underwriters are having to deal both with specific and unique circumstances of 2008 and 2009 and probably the beginning of a sea change in the way that securities cases are being litigated," Mr. Bradford said.

"Plaintiffs' attorneys are structuring cases such that it is much more difficult to consolidate them," he said. "In the past, cases have been consolidated into one massive securities class action. So instead of having one large securities class action suit to defend, insurers are having to pay for the defense of multiple suits. This eats into the policy limits and leaves much less available for making any indemnity payments," he said.

Still, the securities litigation situation "has had little impact on pricing except in the financial services sector," where financial institution D&O premiums are up sharply, according to the report. Otherwise, the "commercial D&O market continues to see rate levels steadily erode. Nonetheless, deteriorating underwriting and investment results throughout the commercial lines insurance industry probably will lead to a firmer market by late 2009 for all lines, including D&O."

The report costs $249 and can be purchased at *http://corner.advisen.com/reports_topical_Securities_Litigation_2008_DO_Market.html.*

AIG: Despite problems, many policyholders remain committed

CONTINUED FROM PAGE 1

chief executive officer of Aon Risk Services' U.S. retail business.

"People intellectually understand that (AIG's) insurance companies remain solvent and have retained their ratings," Mr. Andersen said. What clients are trying to determine, he said, is "What is everybody else doing" in the marketplace in terms of moving business, and what is likely to happen to the insurance subsidiaries' ratings.

"Currently, I am hearing a much greater degree of nervousness in the marketplace from clients, risk managers and brokers with respect to AIG," said Mark Keenan, a partner with Anderson Kill & Olick P.C. in New York, who said he fielded many calls last week about the implications of AIG filing for bankruptcy (see related story). "They want to know, 'When are we going to hear the end of the bad news?' And while they realize that AIG is now effectively owned by the U.S. government, they also realize that somewhere along the line, someone may decide 'I don't want to hold up AIG anymore.'"

Neil C. Krauter, chairman and CEO of broker The Krauter Group in New York, said many clients are losing patience with the troubled insurer.

"Even though they understand the backstops of the assets held at the state level and all the inherent protections that exist regarding the inability of insurance companies to file bankruptcy vs. be taken into rehab by state regulators, clients are reaching a point of intolerance," Mr. Krauter said.

Indeed, one AIG policyholder contacted by *Business Insurance* said he has lost trust in AIG's parent company.

Not only has the insurer restated its maximum credit default swap exposure several times, but the bailout funds provided by the government also have increased substantially, yet the insurer is still expected to report a huge loss, said the risk manager, who is based on the East Coast but asked not to be identified, in an e-mailed response.

"The taxpayer is being forced to pay good money after bad. What will we discover next, that the government failed to ask AIG if the

'Currently I am hearing a much greater degree of nervousness in the marketplace from clients, risk managers and brokers with respect to AIG.'

Mark Keenan
Anderson Kill & Olick P.C.

financial information supplied is correct and more losses are to follow?" he said.

"At the core of it all is, what happens if the parent goes bankrupt," said another East Coast risk manager, who asked not to be identified. "Many risk managers are comforted, as am I, that the insurance subsidiaries are not subject to a parent bankruptcy under insurance laws and the subsidiaries are well-capitalized."

So the question then becomes what effect would bankruptcy of the parent company have on AIG's insurance operations? "We do worry about there being deterioration of the insurance subsidiaries through credit ratings…and them not having the ability to capitalize themselves. But I think that's why it's so important that the government gets this right and ensures that the insurance subsidiaries… remain protected and are long-term viable."

"What scares me the most, coming from a risk manager who has dealt with insurer liquidations in the past, is the potential for my long-tail liability claims being involved in some type of regulator takeover," said a risk manager located on the West Coast, who asked not to be named. "It scares the living daylights out of me when I think about the scale of AIG and the many, many years we've had them on our cover."

"We are still loyal to AIG and hope they can work out their financial situation," the risk manager added, noting that AIG continues to pay claims. "We are currently working on an (April 1) renewal and AIG is in the game, but it will probably not be our front runner."

Other risk managers contacted by last week also say they remain committed to AIG, despite ongoing concerns.

"Myself and a lot of my other risk management colleagues continue to think that despite the recent talent drain that AIG's insurance side has had, they still have the potential to pay claims and to write policies," said Lance J. Ewing, vp risk manager for Harrah's Entertainment Inc. in Memphis, Tenn., and a member of AIG's client advisory board.

"The real issue is if boards of directors and other risk managers get cold feet because the parent is looking rather ill…and say it's time to move some of our business," he said.

Mr. Ewing said he's aware of some companies that have done that, but very few have totally pulled everything from AIG.

"AIG continues to play a vital role in our current insurance portfolio," Mr. Ewing said.

Bill Milaschewski, director of risk management with Boston-based Cabot Corp., said he looked at non-AIG options for his Oct. 1 casualty renewal, but ultimately opted to stay with the insurer. "At this point in time, if my renewal was March 1, we'd probably make the same decision," he said.

He noted, however, that the AIG policy contained an endorsement that allows Cabot to cancel midterm without any penalty if AIG's ratings fall below a certain level.

"At the end of the day, it's not really a salvation because when you're talking casualty, you're talking long-tail claims anyway," he said. "All this does is stop future claims from going into the same hole."

Other risk managers said they have worked out similar endorsements on their AIG policies.

State regulation protects AIG's insurance subsidiaries

Because American International Group Inc.'s insurance subsidiaries are regulated by states, they are not subject to the federal laws that would affect their noninsurance holding company parent should it file for bankruptcy protection.

While the insurance subsidiaries would not be declared bankrupt, state regulators could ultimately take over the insurance operations as a result, attorneys say.

When an insurance holding company declares bankruptcy, one of the things state regulators are concerned about is whether the parent will try to go after the insurance subsidiaries' assets to satisfy creditors, said Fran Semaya, chair of the insurance regulatory group of Nelson Levine de Luca & Horst L.L.C. in New York. "One of the things that might happen is regulators may put (the insurance subsidiaries) into some receivership protection, not because they are insolvent, but because of the need to protect those assets."

"I've seen that happen and I've seen many cases where it hasn't happened," Ms. Semaya said.

Another risk the insurance subsidiaries face if the parent company files for bankruptcy is potential ratings downgrades, said Mark Keenan, a partner with Anderson Kill & Olick P.C. in New York.

"Technically, the parent is a totally different financial enterprise from the insurance subsidiary, so the financial ratings should not be the same, but life is life. The fear factor regarding AIG is the parent will have an effect on its (subsidiaries)," Mr. Keenan said.

—By Sally Roberts

Obama: Reaffirms commitment to comprehensive health care reform

CONTINUED FROM PAGE 1

Unlike the Clinton administration, which drafted a massive health care reform in 1993 with no input from the private sector or from Congress—only to see the plan flop after it was released—President Obama said he looks forward to working with Congress.

"President Obama comes from the Senate and he knows he needs congressional participation" to have any chance of winning passage of such legislation, Mr. McArdle said.

"The president wants to approach this in a collaborative way, not in back rooms. He knows there has to be a broad buy-in," said Paul Dennett, senior vp at the American Benefits Council in Washington.

Experts say another health care reform message that President Obama delivered is that the administration will move slowly and deliberately and that it will not try to win passage of a sweeping measure in one fell swoop.

For example, the president described setting up a $630 billion fund as only a first step to help finance an expansion of health insurance coverage.

AP

President Obama has begun to reveal details about the cost of health care reform.

"He knows comprehensive health care reform will not be fully achieved during this session of Congress. He knows there are too many players and that it is too complicated. But he wants to start moving" toward reform, said Chantel Sheaks, a principal in the Washington office of Buck Consultants L.L.C.

"He wants to take an incremental path," said Jack Rodgers, director of health policy economics at PricewaterhouseCoopers L.L.P. in Washington.

While the budget outline lists reform principals, such as achieving universal coverage, there is no detail on the ways to achieving that goal.

The lack of detail is not surprising, given the short time President Obama has been in office, important economy-related issues facing him and his pledge to work with Congress on developing reform legislation.

"Give him a chance. The president deserves some breathing room. We now have one of the worst recessions ever. More detail will come," said Mark Ugoretz, president of the ERISA Industry Committee in Washington.

Still, the administration offered some details on how it would raise revenues to help fund an expansion of coverage. One proposal was to revamp the system in which managed care plans—known as Medicare Advantage plans—are paid to cover enrollees who opt out of traditional Medicare. Rather than set payment rates, which the administration said it believes result in the plans now being paid on average 14% more than what the government Medicare pays for beneficiaries enrolled in the traditional Medicare program, payments would be based on the average of plans' bids submitted to Medicare. Such an approach, the administration said, would save the government $175 billion over 10 years.

While benefit experts have long expected a cutback in government payments to Medicare Advantage plans, which now have about 10.6 million enrollees, including an unknown number of retirees whose former employers offer coverage through the plans, such a change could mean higher costs for enrollees and employers, Mr. Dennett said.

In addition, to help fund coverage, the administration proposed limiting the tax rate at which families with incomes exceeding $250,000 can take itemized deductions to 28%. Such a change, the administration estimated, would raise $318 billion over 10 years.

ADVERTISER INDEX

Issue of March 2

Turmoil: Asset sale proving difficult in constricted credit market

CONTINUED FROM PAGE 1

operations.

New York-based AIG's plan to emerge a smaller, leaner company so far has proven unworkable because of financial markets' overall illiquidity, as well as the "fire sale" nature of the insurer's efforts to dispose of its operations, observers say.

So far, the asset sale appears to have netted AIG about $2 billion to $2.5 billion since it began last fall (see related story). And, to date, no announcement has been made on one of the more desirable units AIG had been expected to shed, airplane leasing unit International Lease Finance Corp. Some had expected that operation to fetch around $8 billion.

An AIG spokesman referred to the asset sale problems early last week, saying the company faces an "extremely difficult" market in which to sell assets. If AIG cannot get "full and fair market value for these great properties, then all options are on the table, and we'll rethink our sales strategy," he said.

Also looming over AIG last week was the prospect of a roughly $60 billion quarterly loss, which is expected to be driven by writedowns on a variety of assets, including commercial real estate.

Ratings at risk?

Observers say that in the absence of alternative arrangements, a loss of that size would lead to ratings downgrades and, in turn, billions of dollars in collateral calls to counterparties, raising the specter of bankruptcy.

"It appears that the most immediate concern would be the domino effect on rating agencies and regulators, and the requirement that if they have a writedown, it would cause posting additional collateral for their various sources of borrowing," said John L. Ward, chief executive officer of the Cincinnati-based Cincinnatus Financial Group.

Yet most agree that, because of AIG's size and the scope, the U.S. government will not allow it to fail.

The phase of events began in September, when AIG faced the prospect of collapse because of its disastrous involvement in the credit default swap market. AIG signed a definitive agreement with the Federal Reserve Bank for a two-year, $85 billion revolving credit facility in return for the government taking a 79.9% ownership of the insurer, the maximum stake it can have without consolidating AIG's financial results on its own balance sheet.

But the initial loan was not sufficient, and a new $37.8 billion credit agreement was announced in October, taking AIG's total available bailout funding to $122.8 billion. Then, in November, AIG and federal officials unveiled a new plan that included a revised $60 billion credit facility, the purchase of AIG preferred shares and warrants, and establishment of two special-purpose vehicles.

Reports of new rescue terms emerged over the course of last week. Initially, it was reported that the insurer was in discussions with the government to secure additional funds to keep it operating after it issued its earnings report.

The talks between AIG and the government reportedly were focused on how the company could swap some of the debt held by the government for equity in AIG, including perhaps having the government directly take over some AIG units.

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>
> John L. Ward,
> Cincinnatus Financial Group

Later in the week, reports said that AIG and the federal government were in advanced discussions over a radical restructuring that would split the insurer into at least three government-controlled divisions.

Under that plan, the government reportedly would swap its 79.9% holding for large stakes in AIG's Asian operations, its international life insurance business and the U.S. personal lines business.

In return, the government would relax the terms or even cancel the $60 billion loan and convert its $40 billion worth of preferred shares into common stock. Doing so would eliminate AIG's need to pay dividends on the preferred stock.

Subsequently, Bloomberg reported last week that with the insurer grappling with a loss of clients and staff, the government may take over even AIG's commercial property/casualty operations.

The AIG spokesman strongly denied the Bloomberg report.

"I can assure you that the P/C company is staying part of AIG. It's the crown jewel of this company," he said. He said he had no comment on "speculative press reports" about changes in the terms of its arrangement with the federal government.

The issue of retaining good people in light of the "continued ambiguity regarding the future of AIG" is "what keeps me awake at night," said John Wicher of John Wicher & Associates Inc. in San Francisco.

Also under consideration is a plan for AIG to get a backstop from the federal government to protect against further losses on credit-default swaps, according to reports. Financing some buyers of AIG units also was among the options reported.

Mr. Wicher said neither time nor market conditions have been on AIG's side since its bailout.

"No one really knows what the valuation associated with many of the problem assets is, and the important thing for AIG, I think, was to have time to organize and identify those assets which were not a strategic priority and to sell those to create cash to repay the government," he said.

Meanwhile, "market conditions are horrible," Mr. Wicher said. "The general economic uncertainties and the specific economics of the insurance industry right now...have made even the most forward-leaning buyers stand back." While some relatively small deals are being made, those requiring going to the capital markets are "getting a lot harder to do."

Cliff Gallant, an analyst with Keefe, Bruyette & Woods Inc. in New York, said, "Everyone in the world is in a distressed position right now, and getting fair value for an insurance company" is difficult.

AIG's stock closed at 42 cents on Friday, down 19.23%.

Sales of AIG units in past 3 months add up to $2 billion

American International Group Inc. has announced sales of nine units since late last year. Proceeds from the sales total $2 billion to $2.5 billion, depending on whether factors such as assumption of debt are considered, an AIG spokesman said. That is a fraction of the amount AIG must repay the federal government.

Deals, presented by date of the announcement, include:

- **NOVEMBER 2008:** Sao Paulo-based Uniao de Bancos Brasileiros S.A. acquired the shares held by AIG in Unibanco AIG Seguros S.A. for $820 million. As part of the deal, AIG acquired the shares held by AIG Brasil Companhia de Seguros S.A. for $15 million.
- **DECEMBER 2008:** Zurich, Switzerland-based AIG Private Bank Ltd. sold to Abu Dhabi investment company Aabar Investments P.J.S.C. for $254 million.
- **DECEMBER 2008:** AIG sold its interest in Omaha, Neb.-based Tenaska Inc. back to Tenaska for an undisclosed amount.
- **DECEMBER 2008:** AIG's HSB Group Inc., parent company of Hartford Steam Boiler Inspection & Insurance Co., to Munich Re Group for $742 million in cash and assumption of $76 million of outstanding HSB capital securities.
- **JANUARY 2009:** Toronto-based AIG Life Insurance Co. of Canada to Montreal-based BMO Financial Group for $308 million in cash.
- **JANUARY 2009:** AIG Financial Products Corp.'s commodity index business to Swiss bank UBS A.G. for $15 million upon closing and additional payments up to $135 million.
- **JANUARY 2009:** AIG PhilAm Savings Bank Inc. and two related companies to Makati City, Philippines-based East West Banking Corp. for an undisclosed amount.
- **FEBRUARY 2009:** Two Bangkok, Thailand-based companies, AIG Retail Bank Public Co. Ltd. and AIG Card (Thailand) Co. Ltd., to Bangkok-based Bank of Ayudhya Public Co. Ltd. for $58.7 million.
- **FEBRUARY 2009:** AIG Financial Products Corp.'s interests and related commodity hedges in two transactions from its energy and infrastructure book of business to an undisclosed purchaser, for total net proceeds of $60.5 million.

—By Judy Greenwald

Judge rules AIG can continue with suit against NCCI Holdings

By ROBERTO CENICEROS

CHICAGO—American International Group Inc. can proceed with its retaliatory lawsuit alleging fraud against NCCI Holdings Inc. pool members, a federal judge ruled.

The litigation stems from a lawsuit filed by Boca Raton, Fla.-based NCCI in 2007 after New York-based AIG agreed to pay states $300 million to settle allegations it under-reported workers compensation premiums over several decades to underpay states' residual market assessments.

The $300 million payment was part of a $1.64 billion settlement AIG reached in 2006 with then-New York Attorney General Eliot Spitzer over broader civil fraud charges.

NCCI claimed it was excluded from New York's settlement process and that the $300 million was inadequate to reimburse members of the residual reinsurance pool it administers. NCCI claimed that, because AIG did not contribute its appropriate share, other pool members were charged too much.

NCCI's lawsuit on behalf of the pool, which represents hundreds of commercial insurer participants including major competitors of AIG, claims more than $1 billion in damages. It cites violations of the Racketeer Influenced and Corrupt Organizations Act and other allegations.

In response to NCCI's lawsuit, AIG countered with its own complaint alleging that pool members also underpaid residual market assessments to states. Last Monday, District Court Judge Robert W. Gettleman in Chicago ruled that AIG can pursue fraud charges against some of the pool insurers, court records show.

The judge also rejected RICO claims made by AIG. But the judge stayed the case until it rules on a pending AIG motion to dismiss.

Both sides claimed a victory.

A spokesman for the pool said that among other things it is pleased the judge struck down AIG's RICO claims. He also said the pool will continue to pursue the case until it prevails.

"We are pleased that the Court has upheld AIG's most significant claims, which seek a fair apportionment of other insurance carriers' obligations," countered Michael B. Carlinsky, an attorney representing AIG and a partner at Quinn Emanuel Urquhart Oliver & Hedges L.L.P. in New York.

"AIG did the right thing years ago by settling with the New York Attorney General, but some of AIG's competitors are trying to evade any accountability for their own conduct."

News In Brief

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the arrangement does not qualify for fast-track approval. Under its plan, the company would use assets now held in a voluntary employees' beneficiary association to purchase medical stop-loss policies from Prudential Insurance Co. of America to pay claims over the expected lifetimes of about 4,000 retirees and dependents. Prudential would use the premium it receives from Coca-Cola to reinsure the risk with Red Re Inc., Coca-Cola's South Carolina captive.

Best lowers Swiss Re financial strength rating

A.M. Best Co. Inc. downgraded Swiss Reinsurance Co. and its subsidiaries' financial strength rating to A from A+. It also downgraded Swiss Re's issuer credit ratings to a+ from aa-. All the ratings have been removed from being under review with negative implications and assigned a stable outlook. Swiss Re reported a 2008 loss of 864 million Swiss francs ($735.8 million) on Feb. 19. The day before, Standard & Poor's Corp. lowered the reinsurer's financial strength rating and counterparty credit ratings to A+ from AA-. Moody's Investors Service also downgraded the financial-strength and senior debt ratings of Swiss Re and to A1 from Aa3.

Gen Re pays $72 million to settle Ohio finite case

General Reinsurance Corp. agreed last week to pay a $72 million settlement as part of the state of Ohio's securities litigation against New York-based American International Group Inc., according to the Ohio Attorney General's office. The settlement, which must still be approved by federal district court in New York, stems from the February 2008 conviction of five Gen Re and AIG executives in connection with creating a sham finite reinsurance transaction for the purpose of falsely inflating AIG's reported loss reserves by $500 million.

Liberty Mutual places $200 million cat bond

Liberty Mutual Insurance Co. has placed at $200 million catastrophe bond to protect it from losses from U.S. hurricanes, earthquake and fire, according to Standard & Poor's Corp., which rated the notes BB. The bond, issued by Cayman Islands-based special purpose vehicle Mystic Re II Ltd., provides three years of reinsurance protection to Liberty Mutual and its affiliates. The deal comes after the recent successful sale of a $200 million bond by French reinsurer SCOR S.E., and a $150 million cat bond issued by Chubb Corp.

Cat losses make 2008 among costliest years

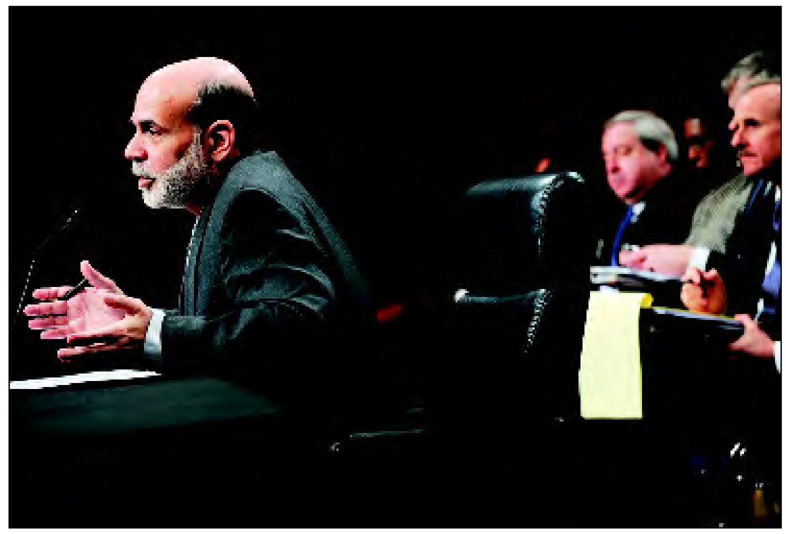
Natural catastrophe losses in 2008 made it the third most expensive year on record in terms of insured and economic losses, according to Munich Reinsurance Co. Overall losses totaled $200 billion, a figure exceeded only in 2005, when Hurricanes Katrina, Rita and Wilma struck the United States, and in 1995, the year of the Kobe earthquake in Japan, said Munich Re. Insured natural catastrophe losses in 2008 totaled $45 billion, the most severe being Hurricane Ike, with industry losses of $15 billion, Munich Re said. Last year's most expensive catastrophe in terms of macroeconomic losses was the earthquake in Sichuan, China, with economic losses of at least $85 billion.

Law change in Missouri allows worker injury suits

Missouri's Supreme Court has ruled that employees excluded from the state's workers compensation system by a definition of accidental injury that lawmakers narrowed in 2005 now can sue their employers. The court, however, also ruled against 71 labor unions and their allies in the Tuesday decision in *Missouri Alliance for Retired Americans vs. Department of Labor*, rejecting labor's arguments that the 2005 amendments to the state's workers comp system are unconstitutional, court records show. Labor backers had argued that the amendments limited the rights of injured workers. Which cases now have remedies under the Missouri workers comp system or in civil court need to be decided on a case-by-case basis, the state Supreme Court said.

Noted

The Supreme Court has declined to review a settlement between Italian insurer Assicurazioni Generali S.p.A and a group of **Holocaust survivors**....The U.K. Court of Appeal has turned down a claim by a group of 50 **Lloyd's of London names** who alleged that the description of reinsurance to close in Lloyd's brochures in the 1980s was fraudulent.



REUTERS

U.S. Federal Reserve Chairman Ben Bernanke testifies before the Senate Banking, Housing and Urban Affairs Committee in Washington last week.

Bernanke: Fed chief warms to optional federal charter

CONTINUED FROM PAGE 3

comments are significant and a boost to the momentum behind the optional federal charter legislation," said Deborah M. Luthi, RIMS' director-external affairs and director-enterprise risk management at Matheson Inc. in Sacramento, Calif.

Another OFC supporter pointed out that Mr. Bernanke is not the first Fed chairman to speak favorably of the idea.

"Alan Greenspan gave much the same generic endorsement of the concept, so I don't think it's unexpected, but it is welcome," said Joel Wood, senior vp of the Council of Insurance Agents & Brokers in Washington.

Mr. Wood added, though, that after having seen the Obama administration's principles for regulatory reform, there appeared to be "some tension" between support for an optional charter and "the administration's desire to eliminate the prospect of regulatory arbitrage. Top administration officials have indicated that they will not support an optional system that allows insurers to play off one regulatory regime against the other. We respect that.

"You have to come up with a federal system that has higher standards in every regulatory aspect than any single jurisdiction—that's a way to construct a workable system that erases any of those fears that you could have a race to the bottom," Mr. Wood said.

An official with a group that supports continued state regulation of insurers said Congress first should address the issue of systemic risk.

Mr. Bernanke "called it a useful idea, and right now the decision-makers are welcoming all ideas, as they should," said Ben McKay, senior vp in the Washington office of the Property Casualty Insurers Assn. of America.

"PCI believes systemic risk should be dealt with first. Our fear is that as we're spending billions of dollars to pull ourselves out of this economic quagmire. We need to make sure that we put in place or charge an existing entity with the task of looking at systemic risk to make sure that we don't end up in another crisis caused by some other systemic risk," Mr. McKay said.

A lobbyist for a group opposing an OFC said the Fed chairman's statement must be kept in context.

"I think its first important to say what he said vs. what he didn't say," said Jimi Grande, vp in the National Assn. of Mutual Insurance Cos.' Washington office. "I think that what he said is that looking at a federal charter option may be a useful idea, and he also said that in the context—particularly for large, systemically critical insurance companies.

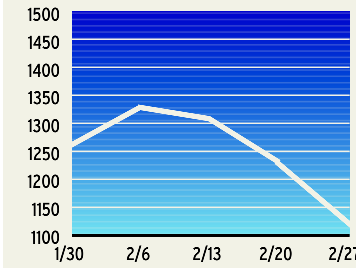
"Our message has been that the industry consists of thousands of independent companies operating in a competitive and healthy market that has experienced none of the turmoil that has weakened and destroyed other financial institutions. Congress is going to deal with systemic risk right now and that's not going to involve the rest of regulatory debate. The property/casualty companies are not in crisis, nor are they systemically significant," Mr. Grande said.

Stock Index

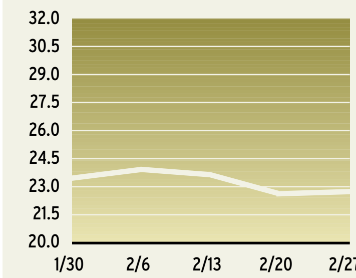
[2/17-2/20]

Up-to-the-minute data for all 82 companies that comprise the BI Stock Index can be found at www.IndustryFocus.com.

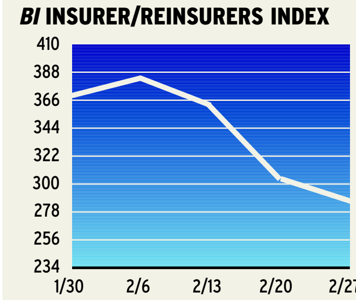
BI STOCK INDEX



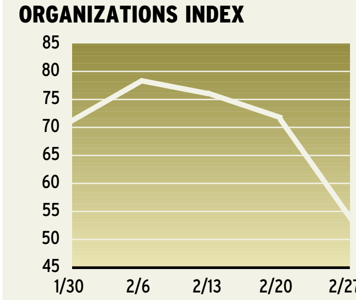
BI BROKERS INDEX



BI INSURER/REINSURERS INDEX



BI MANAGED CARE ORGANIZATIONS INDEX



Percentage change of BI Stock Index vs. key indicators

***BI* STOCK INDEX** 1129.20	-8.82%
DOW JONES 7062.93	-4.11%
S&P 500 735.09	-4.54%

LARGEST GAINS

Allmerica Financial Corp.	17.62%
SCOR S.A.	5.95%
Berkshire Hathaway	2.08%
EMC Insurance Group	1.42%
ProAssurance Corp.	0.50%

LARGEST LOSSES

Ambac Financial Group	-44.34%
Humana Inc.	-41.61%
MBIA Inc.	-31.50%
UnitedHealth Group Inc.	-29.77%
Lincoln National Corp.	-24.91%

Source: Financial Content Inc. http://financialcontent.com

Business Insurance END PAGE

Diner's claim not so nutty, court rules

Do peanut shells on the floor of a theme restaurant threaten safety?

The Tennessee Court of Appeals has answered with a resounding "perhaps" in *Edith L. Freemon vs. Logan's Roadhouse Inc.*

According to court papers, Ms. Freemon said she slipped on peanut shells in Logan's Antioch, Tenn., restaurant in June 2004 and sued the restaurant for allowing a dangerous condition to exist.

The manager at the time said the restaurant puts a complimentary basket of peanuts on each customer's table, and "as part of the roadhouse décor, we encourage customers to throw their peanut shells on the floor." He said there were "no signs of any defects or foreign objects" and the floor was dry where Ms. Freemon fell. "Of course, there were peanut shells on the…floor throughout the restaurant," he said.

A trial court granted summary judgment to Logan's, holding that the Nashville, Tenn.-based company owed no duty of care to the patron "because the presence of the peanut shells was not a latent or hidden condition and did not create a defective or dangerous condition which presented a foreseeable risk of serious injury." No "reasonable jury" could find Ms. Freemon was not at least 50% at fault for her injuries, the lower court held.

But the appeals court questioned the reasonableness of that logic.

"We are unable to say that the only finding a reasonable jury could make would be that she was negligent and that her negligence exceeded any negligence on the part of Logan's," the court said in its ruling last week.

Now the trial court must decide whether peanut shells constitute a threat to life and limb or can be viewed as a mere matter of interior decorating.

Contributing: Jeff Casale, Meg Fletcher, Jerry Geisel, Mark A. Hofmann

Movie star Mickey Rourke performed many of his own stunts for his Oscar-nominated role as a former wrestler.

REUTERS

Insurer wrestles with risky movie

"The Wrestler" star Mickey Rourke may have lost his toehold for a best leading actor Oscar to "Milk" star Sean Penn, but his performance did take one honor: riskiest film of those nominated for the 2009 Academy Awards.

Mr. Rourke starred in the story of Randy "The Ram" Robinson, a onetime celebrity grappler who is down on his luck and battling personal and health issues. It, pundits said, was a case of art imitating life for Mr. Rourke, a onetime boxer whose heyday was nearly two decades ago.

As an insurance concern, the film was the riskiest production among the 79 films nominated for the 2009 honors because Mr. Rourke, 56, did many of his own stunts—including very physical wrestling bouts and deliberately cutting himself to draw blood—amid glass shards, staples and barbed wire.

"As the lead actor in this film, if Rourke had a serious injury, it could have resulted in a delay or even halted production," said Joe Finnegan, vp of the entertainment unit of Novato, Calif.-based Fireman's Fund Insurance Co.

Fireman's Fund, a unit of Munich, Germany-based Allianz S.E., annually writes about two-thirds of the $300 million in gross premiums for U.S.-based film production companies, he said. In addition to standard business liability and property coverage, movie companies also secure coverage of the cast, crew, costumes and negatives.

"Fortunately, (Mr. Rourke) trained and practiced for months, and we worked with the production company—independent Fox Searchlight Pictures—to make sure adequate precautions were in place to mitigate the risk," said Mr. Finnegan, who heads a 40-member team and works at the Hollywood site of client Universal Studios.

Fireman's Fund also insured "Milk" and 45 other 2009 Oscar nominees.

Insurer finds sailor's yarn full of holes

A Seattle man who reportedly deep-sixed his yacht has been accused of making a fraudulent insurance claim, according to the *Seattle Post-Intelligencer*.

Brian A. Lewis was headed from Bainbridge Island, Wash., to Seattle in March 2008 when he decided he'd had enough of mechanical problems suffered by his yacht, the Jubilee. Mr. Lewis left the craft and rowed a borrowed dinghy back to Bainbridge Island, according to the report.

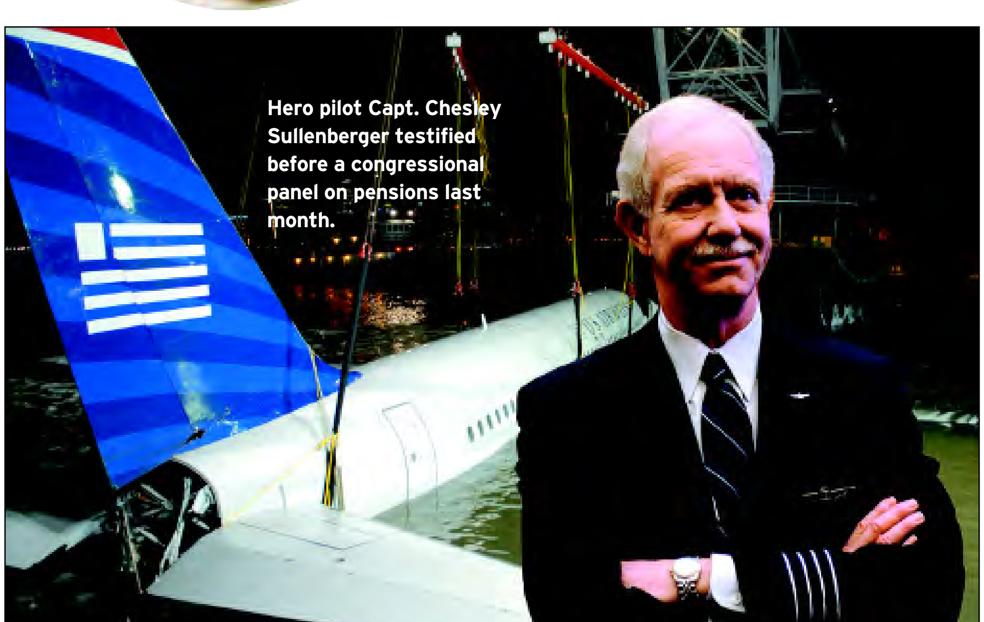
Days later, he contacted his insurance provider, the San Antonio-based United Services Automobile Assn., and filed a claim telling the insurer and police that the boat sank after an accident.

But fear of potential environmental damage led Washington's Department of Natural Resources to retrieve the vessel, after which insurance investigators discovered that the craft's bilge system was damaged and that a two-inch hole had been cut into the hull, the newspaper report said.

"The vessel appeared to have been deliberately sunk," police said in an affidavit leading to the fraud charge earlier this month by King County, Wash., authorities.

Mr. Lewis reportedly admitted that he sunk the yacht, saying that the financial strain of its upkeep and the engine trouble that angered him while sailing last March "caused him extreme anxiety and frustration."

Prior to the sinking, the report said the Jubilee had been listed for sale for $28,500.



Hero pilot Capt. Chesley Sullenberger testified before a congressional panel on pensions last month.

AP

Landing on river, no problem but benefit cuts scare pilots

Some U.S. airline pilots are not getting the soft landing they deserve in retirement, says one lofty member of their ranks.

Last month, Capt. Chesley Sullenberger glided the crippled US Airways jet he was piloting to a forced landing on New York's Hudson River after the plane's engines ingested a flock of birds, knocking out power. All 155 people aboard survived.

And during testimony last week before a congressional panel, Capt. Sullenberger told the panel that the industry is losing experienced pilots because of cuts in pay and benefits.

Capt. Sullenberger, 58, said the benefit promised to him by the Pension Benefit Guaranty Corp., which took over the underfunded US Airways plan in 2003 after the company filed for bankruptcy, was worth "pennies on the dollar," compared with the pension benefit he had accrued.

The PBGC questioned that characterization, though.

A spokesman for the agency noted that federal law requires that assets of terminated plans go first to pay retired workers and those eligible to retire three years before plan termination. That meant US Airways pilots who were 53 years old at time the plan was terminated in 2003 would have received 95% of the benefit they had earned as of 2000, the spokesman said.

"No one in that category would have received pennies on the dollar," he said.